

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Fourteenth day of October Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION Nos.14541 & 14543 of 2019

IN CRL.RC.NO.1068 OF 2019

C.VEERASAMY

[PETITIONER]

Vs

K.SAKTHIVEL

[RESPONDENT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.1068/2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence of three months simple imprisonment imposed by the Learned I Additional District and Sessions Judge, Coimbatore by Judgment dated 27/08/2018 in C.A No. 260/2017 modifying the sentence of one month simple imprisonment imposed by the Learned Judicial Magistrate, Fast Track Court at magisterial Level-II. Coimbatore by Judgment dated 1.8.2017 in C.C.No.82 of 2014, pending disposal of the above Crl.RC.No.1068/2019. [IN CRL.MP.14541/2019]

[ii] exempt the petitioner from surrendering before the Learned Judicial Magistrate, Fast Track Court at magisterial Level-II. Coimbatore in C.C.No.82 of 2014, pending disposal of the above Crl.RC.No.1068/2019. [IN CRL.MP.14543/2019]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.1068/2019 on the file of the High Court and upon hearing the arguments of MR.MOULI L., Advocate for the petitioner the court made the following order:-

- 1.These Criminal Miscellaneous Petitions have been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed vide judgment, dated 27.08.2018, made in Crl.A.No.260/2017, by the learned I Additional District and Sessions Judge, Coimbatore, modifying the judgment of sentence of imprisonment passed in C.C.No.82/2014, dated 01.08.2017, by the Judicial Magistrate/Fast Track Court at Magisterial Level-II, Coimbatore and to exempt the petitioner/accused, from surrendering before the Trial Court, 01.08.2017, made in C.C.No.82/2014, by the Judicial Magistrate/Fast Track Court at Magisterial Level-II, Coimbatore, respectively, pending disposal of the Criminal Revision Case.

- 2.This court heard the learned counsel on either side and also perused the materials placed on record.
- 3.In and by the impugned judgement of the Trial Court, the petitioner/accused was convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo one year simple imprisonment and to pay a fine of Rs.10,000/- in default to undergo two months simple imprisonment. In and by the impugned Judgment of the Appellate Court, the petitioner/accused was convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881, however, the sentence of imprisonment alone was reduced from one year simple imprisonment to three months simple imprisonment.
- 4.According to the learned counsel for the petitioner/accused, there are arguable points available in the Criminal Revision, which is not likely to be taken for final hearing in the near future and the Petitioner/ accused has got a fair chance of succeeding in the Criminal Revision and without prejudice to his contention, the petitioner is ready and willing to deposit 50% of the cheque amount, namely Rs.1,00,000/- (Rupees one lakh only).
- 5.Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Revision Case, the reliefs of exemption from surrender before the Trial Court, suspension of sentence and bail are granted, on the following conditions :-
- a) The Petitioner/Accused shall deposit 50% of the cheque amount (Rs.2,00,000/-), namely, Rs.1,00,000/- (Rupees one lakh only) before the Trial Court, within four weeks from the date of receipt of a copy of this order and on such deposit being made the Trial Court shall redeposit the said amount in a fixed deposit account in any nationalized bank, so that the amount accrues interest. The disbursal of this amount shall be decided at the culmination of the Criminal Revision Case. Thereafter, the Petitioner/Accused is ordered to be released on bail, on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Judicial Magistrate/Fast Track Court at Magisterial Level-II, Coimbatore.
- b) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

c) The Petitioner/Accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every month, until the disposal of the revision petition and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.PC. and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the Trial Court.

d) On the failure of the Petitioner/Accused, depositing the said amount, it is open to the Trial Court to commit the Petitioner/accused into custody for undergoing the sentence.

6. Post the matter on 11.11.2019 for reporting compliance.

-sd/-
14/10/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, COIMBATORE.

1 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT AT MAGISTERIAL LEVEL-II,
COIMBATORE

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

+2 C.C. to M/S.MOULI L. Advocate on payment of necessary charges
SR.No.21045 & 21046

Order

in
CRL MP.Nos.14541 & 14543/2019

in
CRL.RC.1068/2019

Date :14/10/2019

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cs 15/10/2019