

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Seventh day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION NOS.17518 & 17520 OF 2019

IN CRL.RC.NO.1293 OF 2019

R.S.KARUNAKRAN

[PETITIONER]

vs

K.VARALAKSHMI

[RESPONDENT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.1293 OF 2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence passed in C.A. No.116 of 2018 dated 21.02.2019 on the file of Learned XVIII Additional Sessions Judge, Chennai confirming the conviction and sentence passed in C.C.No. 2991/2015 dated 20.02.2018 on the file of the learned Metropolitan Magistrate Fast Track Court-II, Chennai imposing one year imprisonment and further imposing a compensation of Rs.5,20,000/- and enlarge the petitioner on bail pending disposal of the above CRL.RC.NO.1293 OF 2019 [IN CRL.MP.NO.17518 OF 2019]

[ii] exempt the surrender of the petitioner in C.A.No.116 of 2018 before the learned XVIII Additional Sessions Judge, Chennai and confirming the order passed in C.C.No.2991 of 2015 on the file of the Metropolitan Magistrate Fast Track Court-I, CHENNAI CRL.RC.NO.1293 OF 2019 [IN CRL.MP.NO.17520 OF 2019]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.1293 OF 2019 on the file of the High Court and upon hearing the arguments of M/S. SAIRAM V., Advocate for the petitioner, the court made the following order:-

- 1.This Criminal Miscellaneous Petition has been filed by the Petitioner, to suspend the sentence of imprisonment, imposed by the judgement, dated 21.02.2019 made in Crl.A.No.116/2018, by the XVIII Additional Sessions Judge, Chennai, confirming the judgement dated 20.02.2018, made in C.C.No..2991/2015, by the learned Metropolitan Magistrate Fast Track Court-II, Chennai and to exempt the Petitioner from surrendering before the Trial Court, pursuant to the said Judgement, pending disposal of the Criminal Revision Case.

- 2.This Court heard the submissions made by the learned counsel for the Petitioner and also perused both the impugned Judgements.
- 3.In and by both the impugned judgements of the Trial Court and the Appellate Court, the Petitioner, were convicted for the offence under Section 138 of the Negotiable Instruments Act, and sentenced to undergo one year simple imprisonment and the accused is directed to pay sum of Rs.5,20,000/- towards compensation under Section 357 Cr.P.C. in default to undergo three months simple imprisonment.
- 4.The learned counsel for the Petitioner, would submit that there are arguable points available in the Criminal Revision Case and that the revision petition is not likely to be taken for final hearing in the near future and that the Petitioners have got a fair chance of succeeding in the Criminal Revision Case and would pray that the substantive sentence imposed against the Petitioner may be suspended on condition of depositing some amount. He would submit that without prejudice to his contentions, the Petitioner has prepared to deposit 50% of the cheque amount.
- 5.Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, 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 surrendering before the Trial Court, suspension of sentence and bail are granted on the following conditions :-
- a) The Petitioners shall deposit a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only), which is 50% of the cheque amount, before the Trial Court, within a period of 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 disbursement of this amount shall be decided at the culmination of the revision petition. Thereafter, the Petitioner 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 each, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Metropolitan Magistrate, Fast Track Court II, Chennai.
- b) 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 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, depositing the said amount, it is open to the Trial Court, to commit the Petitioner into custody for undergoing the sentence.

6. Post the matter on 10.01.2020, for "reporting compliance".

-sd/-
27/11/2019

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 THE XVIII ADDITIONAL SESSIONS JUDGE,
CHENNAI.

2 THE METROPOLITAN MAGISTRATE,
FAST TRACK COURT-II, CHENNAI.

3 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

+1C.C. to M/S. SAIRAM V. Advocate on payment of necessary
charges SR NO.24505

Order

in
CRL MP NOS.17518 & 17520 OF 2019
in
CRL.RC.1293/2019

Date :27/11/2019

From 7.2.2001 the Registry is issuing certified
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