

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Fifteenth day of May Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.6667 to 6669 of 2019

IN CRL.R.C.NO.453 of 2019

MAYA MOHAN

[PETITIONER/APPELLANT/ACCUSED
IN ALL THE PETITIONS]

Vs

A.JEBAMANI

[RESPONDENT/COMPLAINANT
IN ALL THE PETITIONS]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence against the petitioner/Petitioner in C.A.No.80 of 2017 dated 19.11.2018 on the file of Learned Principal Sessions Judge Kancheepuram at Chengalpattu and confirming the sentenced imposed by the Learned Judicial Magistrate Fast Track Judge, Alandur dated 26.10.2017, made in C.C.No.10 of 2017 and enlarge the Petitioner on bail on such terms and conditions pending disposal of the Crl.R.C.No.453 of 2019.

(ii) To Dispense with the production of certified copy of the Judgment dated 26.10.2017 in C.C.No.10 of 2017 passed by the Learned Judicial Magistrate Fast Track Court, Alandur in C.C.NO.10/2017.

(ii) To exempt the petitioner from surrendering before the Lower Court in pursuant to the judgment passed by the Learned Principal Sessions Judge, Kancheepuram at Chengalpattu by its judgment in C.A. No.80 of 2017 dated 19.11.2018 and as confirming the sentenced imposed by the Learned Judicial Magistrate Fast Track Court, Alandur dated 26.10.2017, made in C.C.NO.10/2017.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.S.PANNEERSELVAN, Advocate for the petitioner, [IN ALL THE PETITIONS] and of M/S.KRITIKA KAMAL P. Govt. Advocate (Crl. Side) on behalf of the Respondent, [IN BOTH THE RESPONDENT] the court made the following order:-

The Petitioner was convicted for the offence under Section 138 of Negotiable Instruments Act by the learned Judicial Magistrate, Fast Track Court at Magisterial level, Alandur in CC No.10 of 2017 dated 26.10.2017. As per the said Judgment, the petitioner has to undergo simple imprisonment for a period of one year, against which the petitioner preferred an appeal before the Principal Sessions Court, Chengalpattu. The lower Appellate Court confirmed the sentence imposed upon the petitioner by the trial Court, under Judgment dated 19.11.2018 in C.A.No.80 of 2017. Against which, the present revision petition has been filed.

2. CrI.M.P.Nos.6667 to 6669 of 2019 have been filed seeking suspension of sentence, to dispense with the production of certified copy of Judgment dated 26.10.2017 in CC No.10 of 2017 and exemption of the petitioner from surrendering before the trial Court.

3. The learned counsel for petitioners would submit that the Courts below have wrongly appreciated the facts and law and convicted the petitioner. The learned Counsel would further submit that the petitioner is prepared to deposit the entire cheque amount, before the trial Court, which is Rs.2,00,000/-.

4. Heard learned Government Advocate (Criminal Side) and the submissions made by learned counsel for the petitioner.

5. In respect of the contention raised by the learned counsel for the petitioners, regarding exemption from surrendering before the Trial Court, it is relevant to note that this Court had in several other cases, following the settled principles of law laid down by the Honourable Supreme Court in its decision reported in **2000 10 SCC 346 : 2000 SCC CrI 1380 (Bihari Prasad Singh Vs. State of Bihar and another)** and also the decision reported in **1979 KLT 857 (Ibrahim Vs. State of Kerala)**, held that for seeking suspension of sentence, the accused need not be under confinement.

6. Considering the facts and circumstances of the case and that there are arguable points involved in the revision as contended by learned counsel for petitioner, and further the revision is not likely to be taken up for final hearing in the near future and that the petitioner had undertaken to deposit the entire cheque amount before the trial court, this Court is of the considered view that the petitioner herein is entitled to the relief of suspension of sentence.

7. Accordingly, the substantive sentence of imprisonment alone is suspended and the production of certified copy of the Judgment dated 26.10.2017 in CC No.10 of 2017 is dispensed with for the present. The petitioner is directed to deposit a sum of Rs.2,00,000/-, before the trial Court within a period of four weeks from the date of receipt of copy of this Order. Exemption from surrendering of the petitioner before the lower Court is granted. Further, the petitioner shall appear before the trial court on the first working day of every English Calendar month, until further orders.

8. With the above observations and direction, the Criminal Miscellaneous Petitions are ordered.

-sd/-
15/05/2019

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 JUDICIAL MAGISTRATE,
FAST TRACK COURT AT MAGISTERIAL LEVEL,
ALANDUR

2 THE PRINCIPAL SESSIONS JUDGE
KANCHEEPURAM, CHENGALPATTU,

+1 C.C. to M/S.S.PANNEERSELVAN Advocate on payment of necessary
charges SR.NO.9839

Order

in
CRL MP.6667 to 6669/2019

in
CRL.R.C.NO.453/2019

Date :15/05/2019

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