

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2019

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.Rc.No.450 of 2019
and
Crl.M.P.No.6659 of 2019

1.Sri Rajalakshmi Textiles
Rep. by its Proprietor,
Mr.P.Purushothaman.

2.P.Purushothaman ..Petitioners

-Vs-

1.P.Raja
2.R.Sarawathi

..Respondents

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 CrPC against the order of the learned Principal Sessions Judge, Tiruppur in Crl.M.P.No.418 of 2019 in C.A.No.36 of 2019 dated 30.04.2019.

For Petitioner : Mr.J.Franklin

For Respondents : Mr.D.Chitra Maragatham

ORDER

The petitioner was prosecuted in C.C.No.357 / 2017 on the file of the Court of Judicial Magistrate, Fast Track Court at Magisterial Level, Tiruppur under Section 138 of the Negotiable Instruments Act, 1881 and he was convicted, vide judgment dated 26.03.2019 and was sentenced to undergo simple imprisonment for a period of 6 months with a fine of Rs.4,00,000/- (Rupees Four Lakhs Only) in default to undergo simple imprisonment for 2 months and the entire fine amount of Rs.4,00,000/- was directed to be paid as compensation to the complainant.

2. On the date of passing of the judgment on 26.03.2019 in C.C.No.357 / 2017, the petitioner/accused was not present before the Trial Court. Thereafter, the petitioner/accused obtained certified copy of the order of conviction and sentence and filed C.A.No.36 / 2019 before the Principal Sessions Court, Tiruppur.

The petitioner also filed CrI.M.P.No.418 / 2019 in C.A.No.36 / 2019 for suspension of sentence and bail. The learned Principal Sessions Judge, Tiruppur, vide order dated 30.04.2019 in CrI.M.P.No.418 / 2019 in C.A.No.36 / 2019, has dismissed the petition on the simple ground that the petitioner did not appear before the Trial Court and did not surrender nor had he paid the compensation of Rs.4,00,000/- as directed by the Trial Court. Challenging the said order, the petitioner/accused is before this Court.

3. Heard Mr.J.Franklin, learned counsel for the petitioner, who has submitted that the petitioner was not aware of the order passed by the Trial Court and therefore, prays that the sentence may be suspended and bail may be granted.

4. In the opinion of this Court, the petitioner should have been present on the day, when the Trial Court passed the judgment. Had the petitioner been present on that day, the Trial Court could have suspended the sentence under Section 389(3) CrPC by giving reasonable opportunity for the petitioner/accused to approach the Appellate Court. The petitioner did not appear before the Trial Court. However, the petitioner applied for certified copy of the judgment of the Trial Court and preferred the appeal before the Sessions Court.

5. In the opinion of this Court, the order under Section 389 (1) CrPC cannot be passed in respect of the accused, who has not been released under Section 389(3) CrPC without he being taken to judicial custody. Under such circumstances, this Court does not find any infirmity in the order passed by the learned Principal Sessions Judge, Tiruppur warranting interference by this Court. It is always open to the petitioner to surrender to judicial custody and thereafter, file a fresh application before the Sessions Court in C.A.No.36 / 2019 under Section 389(1) CrPC and on such filing, the same shall be considered by the Sessions Court in accordance with law.

6. With the above observations, this Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petition is also dismissed.

Jvm

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Principal District and Sessions Court,
Tiruppur.

2.The Court of Judicial Magisterial, FTC
Magisterial Level, Tiruppur.

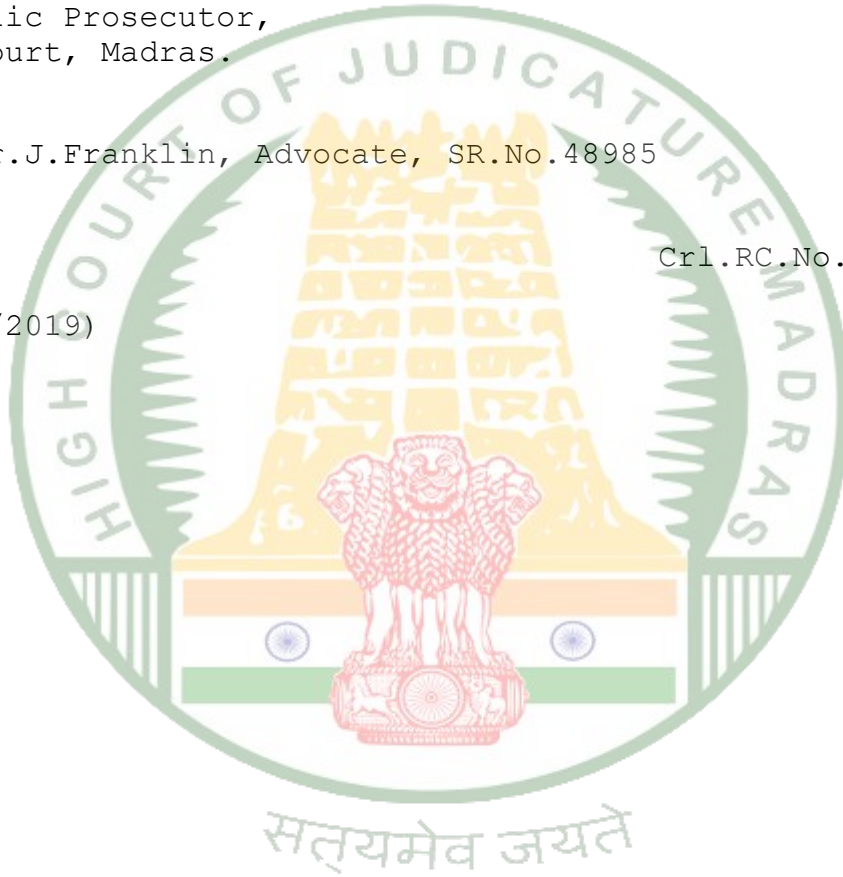
3. -Do- Thro' The Chief Judicial Magistrate,
Tiruppur.

4.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.J.Franklin, Advocate, SR.No.48985

Crl.RC.No.450 of 2019

Kak(19/06/2019)



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