

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.05.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.RC.No.473 of 2019
and
Crl.M.P.No.6765 of 2019

V.Sivakumar

... Petitioner/Appellant

Vs.

Saravanan,

Partner of M/s. SVS Aqua Products,
B-1, Annamalai Homes, Phase II,
Jaswanth Nagar,
Mogappair West,
Chennai - 600 037.

... Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records in Crl.M.P.No.5416 of 2018 in C.A.No.173 of 2018 on the file of the Additional District Judge-II, Tiruvallur at Poonamallee and to set aside the same.

For Petitioner : M/s.A.Laxmi Raj Rathnam

ORDER

This Criminal Revision Petition has been filed to call for the records in Crl.M.P.No.5416 of 2018 in C.A.No.173 of 2018 on the file of the Additional District Judge-II, Tiruvallur at Poonamallee and to set aside the same.

2.By consent, this matter is taken up for final hearing at the admission stage itself.

3.The petitioner is an accused in S.T.C.No.81 of 2016, filed for the offence under Section 138 r/w 141 of the Negotiable Instruments Act. The Trial Court on conclusion of the trial found the petitioner guilty and sentenced him to undergo eight months simple imprisonment and also to pay the cheque amount i.e. Rs.4,65,000/- as compensation to the complainant within two months time, in default to undergo two months simple imprisonment. Aggrieved against the order, the petitioner has filed an appeal before the Principal Sessions Judge, Thiruvallur in C.A.No.173 of 2018 and a petition for suspension of sentence vide Crl.M.P.No.5416 of 2018.

4.The Lower Appellate Court had suspended the sentence on the petitioner and directed the petitioner to deposit the 20% of the cheque amount as per the Amendment Act, within a period of two months in default in depositing the said amount within stipulated period, the petition shall stands dismissed automatically. The petitioner is unable to make the deposit within the stipulated time. Hence, he filed an un-numbered Crl.M.P. before the II Additional District and Sessions Court, Tiruvallur at Poonammallee. The learned II Additional District and Sessions Judge, Tiruvallur had passed an order in the above said un-numbered Crl.M.P. on 26.04.2019 and the relevant paragraph is extracted as under:

"4.The Suspension of Sentence Order was passed on 24.10.2018 in Crl.M.P.No.5416 of 2018. As per the Amendment Act, the petitioner has to deposit the 20% of the cheque amount within 60 days. If any petition filed for extension of time, the Court can extend a further period of 30 days. In this case, the petitioner did not comply the order for more than six months. Therefore, this petition is rejected."

5.Against which the petitioner has filed this criminal revision. The petitioner had filed a Medical certificate stating that the petitioner was suffering from severe low back pain, due to herniation of disc and was advised to take complete bed rest and he was immobilized. Thereafter, on 19.03.2019, the petitioner filed a memo before the Fast Track Court at Ambattur in S.T.C.No.81 of 2016, along with the 20% of the cheque amount i.e. Rs.93,000/- (Rupees ninety three thousand only). The petitioner now seeks to set aside the order of rejection of extension petition.

6.Delay in depositing the cheque amount due to the health condition is acceptable. In view of the same, the petitioner is granted time to deposit the 20% of the cheque amount of Rs.93,000/- (Rupees ninety three thousand only) within a period of three weeks, from the date of receipt of a copy of this order and the suspension of sentence ordered by the Lower Appellate Court in Crl.M.P.No.5416 of 2019 is hereby restored.

7.Accordingly, this Criminal Revision Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (V.O)

//True Copy//

Sub Assistant Registrar

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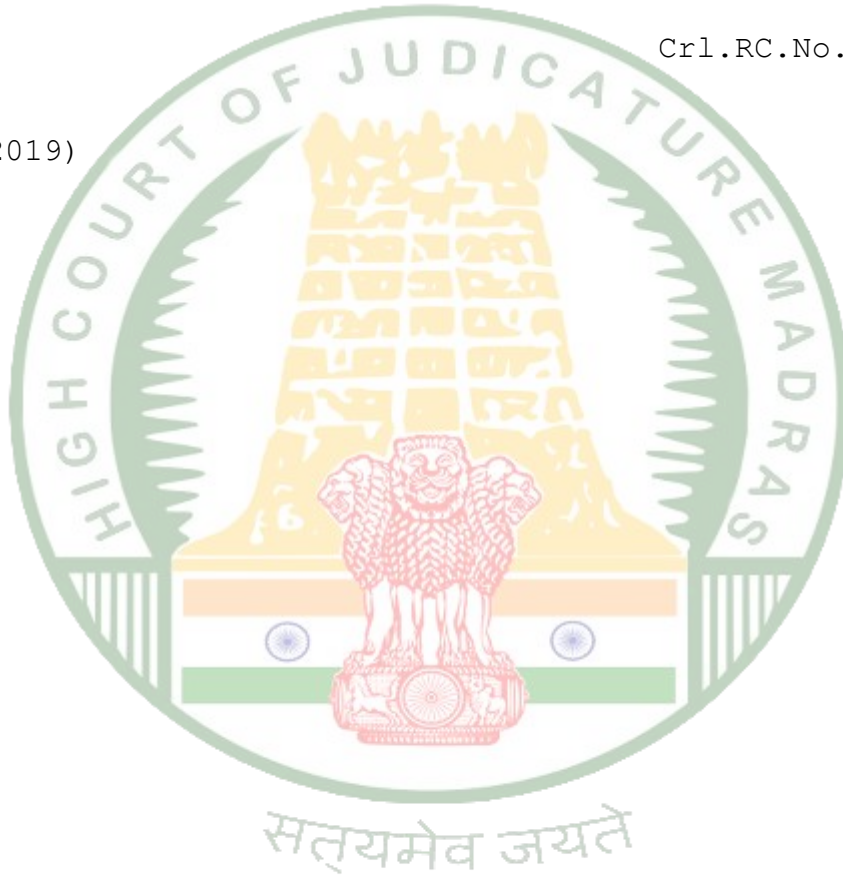
To

The Additional District Judge-II,
Tiruvallur at Poonamallee.

+2cc to Mr. A.Laxmi Raj, Advocate, S.R.No. 10517

Cr1.RC.No.473 of 2019

RK(CO)
GN(03/06/2019)



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