

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Seventh day of June Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION Nos.6803 and 6805 of 2019

in CRL RC.No.487 of 2019

P.ANIL KUMAR

[PETITIONER / RESPONDENT
in both petitions]

vs

KOCHAPPAN THOMAS
REP BY POWER AGENT,
MR.C.L.JOSEPH

[RESPONDENT / APPELLANT
in both petitions]

Petition praying that in the circumstances stated therein the High Court will be pleased to

(i) suspend the sentence imposed in the Judgment passed in Crl.A.No.507 of 2018 dated 27.04.2019 on the file of the I Additional District and Sessions Court at Coimbatore in reversing the order of acquittal dated 24.09.2018 passed in C.C.No.14 of 2016 on file of the Fast Track Magistrate at Coimbatore and sentencing the petitioner [CRL.M.P.No.6803 of 2019]

(ii) exempt the petitioner from surrendering pursuant to the order of conviction passed in Crl.A.No.507 of 2018 on the file of the I Additional District and Sessions Court at Coimbatore dated 27.04.2019 pending disposal of the present CRL.R.C.No.487 of 2019 [CRL.M.P.No.6805 of 2019]

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.DEEPAN UDAY, Advocate for the petitioner, in both petitions and of M/S.KRITIKA KAMAL .P Government Advocate (Crl.Side) on behalf of the Respondent, in both petitions the court made the following order:-

It is seen that the petitioner was acquitted by the trial Court in C.C.No.14 of 2014 on 24.09.2018, challenging which, the complainant preferred Crl.A.No.507 of 2018 before the Sessions Court, where the petitioner was convicted under Section 138 of the Negotiable Instruments Act, 1881 and was sentenced to undergo one year simple imprisonment and pay compensation of Rs.30,00,000/- being the cheque amount. On a perusal of the records, it is seen that the

entire case is predicated on the Memorandum of Understanding dated 09.11.2010, which was marked as Ex.D2. The petitioner was not a partner in M/s.Exide Industrial Distributors and that, his brother-in-law one P.P.Saseendran was the partner. In paragraph No.7 of Ex.D2, it is stated that liability of the petitioner was Rs.20,44,462/-, whereas the impugned cheque is for Rs.30,00,000/-. The trial Court has given a finding that the complainant has not explained, as to how the liability was determined at Rs.30,00,000/-. Under such circumstances, suspension of sentence and bail are granted without the petitioner being taken into judicial custody on the following conditions :

i.The petitioner shall surrender before the trial Court within two weeks from the date of receipt of a copy of this order and on such surrender, he shall be released on bail on he executing a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the Judicial Magistrate, Fast Track Court No.I, Coimbatore.

ii.The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass book to ensure their identity.

iii.The petitioner shall appear before the Judicial Magistrate, Fast Track Court No.I, Coimbatore at 10.30 a.m. on the first working day of every month until disposal of this revision petition.

iv.On any particular date if the petitioner is not able to appear, leave is granted to the petitioner to file an application under Section 317 Cr.P.C. and appear before the Magistrate on any other day as determined by the Magistrate in lieu of the day on which he would absent.

-sd/-

07/06/2019

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 NO.I,
COIMBATORE

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
COIMBATORE

+2 C.C. to M/S.DEEPAN UDAY Advocate on payment of necessary
charges SR.NO.11007, 11008

Order

in
CRL MP.Nos.6803 & 6805/2019

in
CRL RC.487/2019

Date :07/06/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

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