

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2019

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.R.C.No.609 of 2019
and
Crl.MP.Nos.8323 & 8324 of 2019

R.Ramesh ... Petitioner/accused

-Vs-

K.Arjunan ... Respondent/complainant

Criminal Revision Petition filed under section 397 r/w 401 of the Code of Criminal Procedure to set aside the order dated 26.04.2019 passed by the Principal Sessions Judge, Tiruppur in Crl.MP.No.490 of 2019 in C.A.No.46 of 2019.

For Petitioner : Mr.K.C.Karl Marx

O R D E R

This Criminal Revision Petition has been filed to set aside the order dated 26.04.2019 passed by the Principal Sessions Judge, Tiruppur in Crl.MP.No.490 of 2019 in C.A.No.46 of 2019.

2. The petitioner was convicted in C.C.No.465 of 2018 by the Judicial Magistrate No.I, Tiruppur, under Section 138 of the Negotiable Instruments Act, 1881, and was sentenced to undergo Rigorous Imprisonment for a term of one year and to pay compensation of Rs.4,00,000/- to the complainant.

3. After convicting and sentencing the petitioner, the Trial Court in exercise of power under Section 389(3) Cr.P.C., suspended the sentence till 22.04.2019 in CMP.No.1538 of 2019 so as to provide an opportunity for the petitioner to approach the Appellate Court and obtain orders under Section 389(1) Cr.P.C. The petitioner filed Crl.MP.No.490 of 2019 in C.A.No.46 of 2019 on 22.04.2019 before the Sessions Court, Tiruppur and prayed for suspension of sentence and bail under Section 389(1) Cr.P.C, which has been dismissed by the Sessions Court on 26.04.2019,

aggrieved by which, the petitioner is before this Court.

4. Heard Mr.K.C.Karl Marx, learned counsel for the petitioner, who submitted that the petitioner was not able to engage an advocate immediately, after he was convicted and sentenced by the Trial Court, on account of penury, that had occasioned the delay. The Sessions Judge has dismissed the suspension of sentence petition on the ground that the petitioner had not shown any interest in approaching the Appellate Court before 22.04.2019. Though the indignation of the Sessions Judge cannot be faulted, yet, this Court is of the view that the interest of justice will be served, if an opportunity is given to the petitioner to approach the Sessions Court with a fresh application under Section 389(1) Cr.P.C. with the following conditions:

(a) The petitioner shall deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) within a period of four weeks from the date of receipt of a copy of this order, before the Trial Court and On such deposit, the Trial Court is directed to redeposit the said amount in the Fixed Deposit in anyone of the Nationalized Bank, so that it accrues interest and the same can be disbursed either to the complainant or to the accused, depending upon the outcome of the appeal before the Sessions Court.

(b) The petitioner shall surrender before the Sessions Court, Tiruppur and file a fresh application under Section 389(1) Cr.P.C. in C.A.No.46 of 2019 and the same shall be considered on merits.

5. In the light of the aforesaid directions, this Criminal Revision Petition is allowed and the order dated 26.04.2019 passed by the Principal Sessions Judge, Tiruppur, in CrI.MP.No.490 of 2019 in C.A.No.46 of 2019, is hereby set aside and the matter is remitted back to the Sessions Court, Tiruppur. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

mk

To

1. The Judicial Magistrate No.I,
Tiruppur.

2. The Principal Sessions Judge,
Sessions Court,
Tiruppur.

+1cc to Mr.K.C.Karl Marx, Advocate, S.R.No.5375

Cr1.R.C.No.609 of 2019

PPA(CO)

RRS (23/07/2019)



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