

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Fourth day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.10388 & 10391 of 2019

in CRL.RC.NO.739 OF 2019

S.MANIVANNAN

[PETITIONER]

Vs

P.SATHISHKUMAR

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.739/2019 on the file of the High Court, the High Court will be pleased to

[I]suspend the sentence of imprisonment imposed in the judgment dated 05.06.2018 made in S.T.C. No.317 of 2017 on the file of the Judicial Magistrate No.I, Erode which was confirmed in the judgment dated 07.12.2018 made in C.A.No.269 of 2018 on the file of the II Additional district of the above revision petition.
[CRL.MP.NO.10388/2019]

[II]grant an order of exemption from surrendering before the trial court in pursuance to the judgment dated 07.12.2018 made in C.A.No.269 of 2018 on the file of the II Additional District and Sessions Judge, Erode confirming the conviction imposed the judgment dated 05.06.2018 made in S.T.C.No.317 of 2017 on the file of the Judicial Magistrate No.1, Erode Pending disposal of the above revision Petition.[CRL.MP.NO.10389/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No. on the file of the High Court and upon hearing the arguments of M/S. GURUPRASAD M. Advocate for the petitioner and of MR.N.SOMASUNDAAR Advocate on behalf of the Respondent the court made the following order:-

- 1.This Criminal Miscellaneous Petition has been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed by the judgment, dated 07.12.2018, passed in Crl.A.No.269/2018, by the learned II Additional District and Sessions Judge, Erode, by confirming the judgment, dated 05.06.2018, made in S.T.C.No.317/2017, by the learned Judicial Magistrate No.1, Erode, pending disposal of the Criminal Revision Case.

2. This court heard the learned counsel for the petitioner and also perused the materials placed on record.

3. In and by both the impugned judgements, for non-payment of the cheque amount in question, viz. Rs.1,80,000/-, the Petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo Six Months Simple Imprisonment and to pay a compensation of Rs.1,80,000/- (Rupees One Lakh Eighty Thousand Only), in default, to undergo One Month Simple Imprisonment.

4. According to the learned counsel for the petitioner that there are arguable points available in the Criminal Revision Case, which is not likely to be taken for final hearing in the near future and the Petitioner/accused has got a fair chance of succeeding in the Criminal Revision Case and hence, the substantive sentence imposed against the Petitioner/accused may be suspended.

5. The learned counsel for the respondent would object stating that the case is of the year 2017 and the original conviction was on 05.06.2018 and the same has been confirmed by the appellate Court on 07.12.2018. Thereafter revision has been filed with a delay on 28.06.2019.

6. At this juncture the learned counsel for the petitioner submitted that without prejudice to his contention the petitioner is prepared to deposit Rs.1,00,000/- (Rupees One lakh only) to the credit of S.T.C.No.317 of 2017, Judicial Magistrate Court No.I, Erode. He further submitted that without prejudice to his rights he has no objection for the respondent being permitted to withdraw the amount of Rs.1,00,000/- being deposited on appropriate application being filed before the trial Court.

7. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Revision Case, the suspension of sentence and bail are granted, on the following conditions :-

a) The Petitioner/Accused shall surrender before the Trial Court and deposit Rs.1,00,000/- (Rupees One Lakh Only) before the Trial Court, within two weeks from today.

b) Thereafter, the Petitioner/Accused is ordered to be released on bail, on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate, Fast Track Court No.1, Erode.

c) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards

or Bank Pass Books to ensure their identities.

- d) The Petitioner/Accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every month, until the disposal of the revision petition and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.PC. and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the Trial Court.
- e) The trial Court shall disburse the amount of Rs.1,00,000/- to the respondent/complainant on proper application being made.
- f) On the failure of the Petitioner/Accused, depositing the said amount, it is open to the Trial Court to commit the Petitioner/ Accused into custody for undergoing the sentence.

8. Post the matter on 07.11.2019 for reporting compliance.

-sd/-
24/10/2019

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.

सत्यमेव जयते

TO

1 THE JUDICIAL MAGISTRATE,
NO.I, ERODE

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE[FOR INFORMATION]

3 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT NO.1, ERODE

4 THE II ADDITIONAL DISTRICT
AND SESSIONS JUDGE, ERODE
<https://hcservices.ecourts.gov.in/hcservices/>

WEB COPY

+1 C.C. to M/S. GURUPRASAD M. Advocate on payment of necessary charges SR.NO. 22034

+1 C.C. to M/S. N.SOMASUNDAAR. Advocate on payment of necessary charges SR.NO. 21944

Order

in

CRL MP.10388 & 10391/2019

in CRL.RC.NO.739 OF 2019

Date :24/10/2019

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format
RD 24/10/2019



WEB COPY