

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eighteenth day of September Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.13420 & 13423 of 2019

IN CRL.R.C.NO.945 of 2019

C.VIDYA

[PETITIONER]

Vs

K.SRINIVASAN

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the imposed on the petitioner by the Learned Second Additional District and Sessions Judge, Salem in C.A.No.71/2017 dated 21.02.2019 judgment of the Learned Judicial Magistrate No.III, Salem in S.T.C.No.4 of 2016 dated 31.05.2017.

(ii) To exempt the petitioner from surrendering before the court of the Learned Second Additional District and Sessions Judge, Salem in C.A.No.71/2017 dated 21.02.2019 confirming the conviction and sentence passed by the Learned Judicial Magistrate No.III, Salem in S.T.C.No.4 of 2016 dated 31.05.2017 pending disposal of the above Crl.R.C.No.945 of 2019.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.J.FRANKLIN, Advocate for the petitioner, the court made the following order:-

- 1.These Criminal Miscellaneous Petitions have been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed by the judgment, dated 31.05.2017 passed in STC.No.4 of 2016, by the learned Judicial Magistrate III, Salem as confirmed in the judgment, dated 21.02.2019, made in Crl.A.No.71/2017, by the learned II Additional District and Sessions Judge, Salem and to exempt the Petitioner/ Accused, from surrendering before the Trial Court, in connection with the conviction and sentence, imposed by the judgment, dated 31.05.2017, made in STC.No.4 of 2016, by learned Judicial Magistrate III, Salem, respectively, pending disposal of the Criminal Revision Case.

cheque amount in question, viz. Rs.9,34,000/-/-, 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 sum of Rs.5,000/- (Rupees five thousand Only), in default, to undergo one month Simple Imprisonment.

3. According to the learned counsel for the Petitioner/accused, 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 and the Petitioner may be exempted from surrendering before the Trial Court. He would further submit that the petitioner in order to rebut the presumption, the petitioner had examined the Bank Manager, who has stated that on the particular day the complainant has not drawn any amount as stated by him, however without prejudiced to his contention, he is ready and willing to deposit 25% of the cheque amount.

4. 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 reliefs of exemption from surrender before the Trial Court, suspension of sentence and bail are granted, on the following conditions :-

a) The Petitioner/Accused shall deposit 25% of the cheque amount namely, Rs.2,33,500/- (Rupees Two Lakhs thirty three thousand and five hundred Only) before the Trial Court, within four weeks from the date of receipt of a copy of this order and on such deposit being made the Trial Court shall redeposit the said amount in a fixed deposit account in any nationalized bank, so that the amount accrues interest. The disbursal of this amount shall be decided at the culmination of the Criminal Revision Case. 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 Judicial Magistrate-III, Salem.

b) 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.

c) 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.

d) 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.

Post the matter after four weeks for reporting compliance.

-sd/-
18/09/2019

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,
NO.III, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE SECOND ADDITIONAL
DISTRICT AND SESSIONS JUDGE, SALEM

+1 C.C. to M/S.J.FRANKLIN Advocate on payment of necessary charges SR.NO.19477

Order

in

CRL MP.13420 & 13423/2019

in

CRL.R.C.NO.945/2019

Date :18/09/2019

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

TA-24/09/2019