

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the First day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION Nos.15576 & 15579 of 2019

IN CRL.RC.NO.1169 OF 2019

POOKUNHI KOYA

[PETITIONER]

Vs

1 THE STATE REP BY
THE PUBLIC PROSECUTOR,
PONDICHERRY.

[RESPONDENTS]

2 SIDDIQUE NELLOLI

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1169 of 2019 on the file of the High Court, the High Court will be pleased to

(i)suspend the execution of the sentence passed in STR No.1002/2013 by the Learned Judicial Magistrate, Mahe dated 01.03.2016 which was confirmed against the petitioner in C.A.No.200012/2016 dated 17.12.2018 on the file of the Learned II Additional Sessions Judge at Puducherry.(IN CRL.M.P.No.15576 OF 2019)

(ii)exempt from the surrender of the accused in view of the STR No.1002/2013 by the Learned Judicial Magistrate, Mahe dated 01.03.2016 which was confirmed against the petitioner in C.A.No.200012/2016 dated 17.12.2018 on the file of the learned II Additional Sessions Judge at Puducherry.(IN CRL.M.P.No.15579 OF 2019)

Order : These petitions coming on for orders upon perusing the petitions and the Memorandum of Grounds in Crl.Revision Case No.1169 of 2019 on the file of the High Court and upon hearing the arguments of M/S.KINGSLY SOLOMON J.,Advocate for the petitioner and of M/S BHARATHA CHAKRAVARTHY, PUBLIC PROSECUTOR(PUDUCHERRY) on behalf of the Respondent the court made the following order:-

- 1.These Criminal Miscellaneous Petitions have been filed by the Petitioner/Accused to suspend the sentence of imprisonment, imposed by the judgment, dated 17.12.2018 made in C.A.No.200012/2016, by the II Additional Sessions Judge, Puducherry as confirmed in the judgment, dated 01.03.2016 passed in S.T.R.No.1002/2013, by the Learned Judicial Magistrate, Judicial at Mahe and to exempt the

Petitioner from surrendering before the Trial Court, in connection with the conviction and sentence, imposed in S.T.R.No.1002/2013, by the learned Judicial Magistrate, Judicial at Mahe by judgement, dated 01.03.2016, respectively, pending disposal of the Criminal Revision Case.

2.This court heard the learned counsel on either side and also perused the materials placed on record.

3.In and by both the impugned judgements of the Trial Court and the Appellate Court, the petitioner/accused was convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo Six Months Simple Imprisonment and to pay Rs.5,000/- as compensation, in default to undergo one month Simple Imprisonment.

4.The learned counsel for the Petitioner/accused would submit that there are arguable points available in the Criminal Revision Case and that the revision petition is not likely to be taken for final hearing in the near future and that the Petitioner has got a fair chance of succeeding in the Criminal Revision Case and would pray that the substantive sentence imposed against the Petitioner/Accused may be suspended on condition of depositing some amount.

5.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 Court, suspension of sentence and bail are granted on the following conditions :-

a) The Petitioner/Accused shall deposit a sum of Rs.3,50,000/- (Rupees Three Lakhs and Fifty Thousand Only) before the Trial Court, within a period of 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 revision petition. 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 Mahe.

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.

6. Post the matter on 02.12.2019 for reporting compliance.

-sd/-

01/11/2019

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, MAHE

2 THE CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
PUDUCHERRY

4 II ADDITIONAL SESSIONS JUDGE,
PUDUCHERRY

C.C. to M/S.KINGSLY SOLOMON J. Advocate on payment of necessary charges Sr.22672

WEB COPY

Order
in

CRL Nos.15576 & 15579 of 2019

IN CRL.RC.NO.1169 OF 2019

Date :01/11/2019

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RVR 05/11/2019

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