

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Thirtieth day of August Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION NOS.12513 & 12514 OF 2019

IN CRL RC.840/2019

T.SENTHILKUMAR

[PETITIONER]

Vs

RAJASEKAR

[RESPONDENT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL RC.840/2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence made in Judgement dated 28.03.2019 in C.A.No.321 of 2018 on the file of 1st Additional District and Sessions Judge at Coimbatore in confirming the Judgment dated 05.07.2018 in C.C.No.160 of 2017 on the file of Judicial Magistrate Court at Sulur, Coimbatore pending disposal of this above CRL RC.840/2019 [IN CRL.MP.NO.12513 OF 2019]

[ii] exempt the petitioner from surrendering before the trial court in C.C.No.160 of 2017 on the file of Judicial Magistrate, Sulur at Coimbatore District pending disposal of this CRL RC.840/2019 [IN CRL.MP.NO.12514 OF 2019]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL RC.840/2019 on the file of the High Court and upon hearing the arguments of M/S.K.MYILSAMY, Advocate for the petitioner, the court made the following order:-

The petitioner has been convicted by the Judicial Magistrate, Sulur in C.C.No.160 of 2017 on 05.07.2018 of the offence under Section 138 of the Negotiable Instruments Act, 1881 and has been sentenced to undergo 1 year simple imprisonment and fine of of Rs.5,000/-, in default to undergo 3 months simple imprisonment. The appeal in C.A.No.321 of 2018 was heard by the I Additional District and Sessions Court, Coimbatore and by judgment and order dated 28.03.2019, the conviction was confirmed but the sentence was reduced to 3 months simple imprisonment. Challenging the conviction and sentence imposed by the two Courts below, the petitioner is before this Court under Section 397 read with 401 Cr.P.C.

2.Considering the facts and circumstances of the case and also considering the submission of the learned counsel for the petitioner that there are several infirmities in the prosecution case and that there are arguable points involved in the revision petition and further, the revision petition is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

3.Taking into consideration the grounds raised by the petitioner, the reliefs of exemption from surrender before the Sessions Court, suspension of sentence and bail are granted on the following conditions :

i. the petitioner shall deposit Rs.2.5 lakhs before the trial Court within six weeks from the date of receipt of a copy of this order and on such deposit, the trial Court is directed to redeposit the amount in a fixed deposit account in any nationalised bank, so that the amount accrues interest. The disbursal of this amount shall be decided at the culmination of this revision petition. Thereafter, the petitioner 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, Sulur;

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

iii. the petitioner 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 Cr.P.C. 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; and

iv. on the failure of the petitioner depositing the amount, it is open to the trial Court to commit the petitioner into custody for undergoing the sentence.

-sd/-

30/08/2019

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,
SULUR, COIMBATORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE I ADDITIONAL DISTRICT
AND SESSIONS JUDGE, COIMBATORE.

+2C.C. to M/S.K.MYILSAMY Advocate on payment of necessary charges SR NOS.18324, 18325

Order

in

CRL MP.12513 & 15214 OF 2019

in

CRL RC.840/2019

Date :30/08/2019

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MK:04/09/2019