

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Third day of September Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.13614 of 2019

IN CRL.R.C.NO.963 of 2019

S.B.PRABHAKAR

[PETITIONER]

Vs

K.MURUGESWARI

[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 execution of the sentence of one month simple imprisonment imposed in S.T.C.No.73/2016 dated 18.04.2018 on the file of Judicial Magistrate-II, Ponneri.

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.D.MURTHY, Advocate for the petitioner, 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, 18.04.2018, made in S.T.C.No.73/2016, by the learned Judicial Magistrate-II, Ponneri, 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 the impugned judgement, the Petitioner/ accused was convicted by the Trial Court and sentenced for the offence under Sections 138 of the Negotiable Instrument Act to undergo One Month Simple Imprisonment and to pay a compensation of Rs.1,10,000/-, in default, to undergo Two Weeks Simple Imprisonment, which was confirmed by the Appellate Court in the appeal in Crl.A.No.83 of 2018, by judgment dated 11.06.2019..
- 4.According to the learned counsel for the Petitioner/accused would submit that a case has been filed by the complainant against the petitioner/accused for the offence under Section 138 of the Negotiable Instrument Act, however, the Trial Court, without

considering the bonafides of the petitioner, had convicted him and thereafter, on appeal, it had been confirmed. He would submit that without prejudice his contentions the petitioner/accused is prepared to deposit the entire cheque amount before the Trial Court within a period of two weeks. He would further submit 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. 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 substantive sentence of imprisonment alone is suspended and the petitioner/accused is ordered to be enlarged on bail, on the following conditions :-

- a) The Petitioner/Accused shall deposit a sum of Rs.1,10,000/- (Rupees One Lakh Ten Thousand Only) before the Trial Court 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 disbursement 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, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Ponneri.
- 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.

Post the matter on 14.10.2019 for reporting compliance.

-sd/-

23/09/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)

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High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, PONNERI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

+1 C.C. to M/S.D.MURTHY Advocate on payment of necessary
charges SR.NO.19925

Order

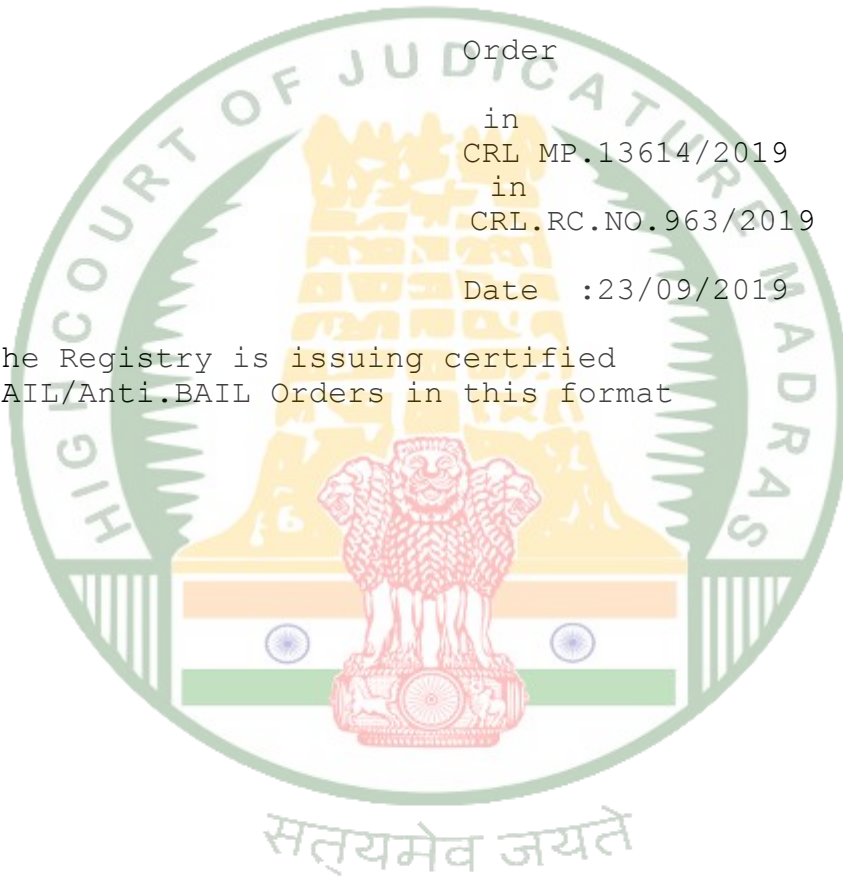
in
CRL MP.13614/2019

in
CRL.RC.NO.963/2019

Date :23/09/2019

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TA-30/09/2019



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