

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Sixth day of September Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION NO.12801 & 12803 OF 2019

IN CRL.RC.NO.874 OF 2019

A.SANGAMESWARAN

[PETITIONER]

Vs

MYTHILI

[RESPONDENT]

REP.BY ITS MANAGER/POWER AGENT

V.JAGANATHAN

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.874 OF 2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence imposed on the petitioner in STC No.588/2013 on the file of Judicial Magistrate, Fast Track Court no.I, Erode dated 16.08.2016 as confirmed in C.A.No.165/2016 on the file of I Additional District Sessions Judge, Erode dated 17.07.2019 and enlarge the petitioner on bail pending disposal of the above CRL.RC.NO.874 OF 2019 [IN CRL.MP.NO.12801 OF 2019]

[ii] grant exemption from surrender in connection with the sentence imposed in STC No.588/2013 on the file of Judicial Magistrate, Fast Track Court No.I, Erode dated 16.08.2016 pending disposal of the above CRL.RC.NO.874 OF 2019 [IN CRL.MP.NO.12803 OF 2019]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.874 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.S.KAMADEVAN, Advocate for the petitioner, the court made the following order:-

- 1.These Crl.MP.Nos.12801 and 12803 of 2019 have been filed to suspend the sentence, imposed on the Petitioner/ accused in STC.No.588 of 2013, by the Judicial Magistrate, FTC-I, Erode, by judgement, dated 16.08.2016, as confirmed in Crl.A.No.165 of 2016, by judgement dated 17.07.2019, by the I Additional District Sessions Judge, Erode and to exempt the Petitioner from surrendering in connection with the sentence imposed in STC.No.588 of 2013, by the Judicial Magistrate, FTC-I, Erode, by judgement, dated 16.08.2016, respectively.

- 2.The facts, in a nutshell, are that the Petitioner/ accused had purchased dhotis, worth Rs.2,00,475/-, vide Invoice No.3, dated 22.04.2013 and worth Rs.3,27,127/- vide Invoice No.5, dated 15.05.2013, from the Respondent/ complainant, who is the Proprietor of J.M.Mills. The Petitioner/ accused had issued seven cheques, bearing Nos.121114, 121115, 121116, 121128, 121129, 121130 and 121132, dated, 5.6.2013, 10.6.2013, 15.06.2013, 20.06.2013, 25.06.2013, 30.06.2013 and 05.07.2013, for sums of Rs.65,000/-, Rs.65,000/-, Rs.70,745/- Rs.80,000/-, Rs.80,000/- and Rs.87,126/-, respectively, towards the discharge of the said purchase. Only two cheques, dated 5.6.2013 and 15.06.2013 were encashed. The remaining five cheques were dishonoured on the ground of insufficient funds. Hence, the complainant had issued a legal notice, dated 12.07.2013, calling upon him to pay a sum of Rs.3,92,126/- due under the said five cheques and a reply was sent by the Petitioner/ accused with false allegations. Hence, the complainant had filed a complaint for the offences under Section 138 and 142 of Negotiable Instruments Act against the Petitioner/ accused, in STC.No.588 of 2013, before the Judicial Magistrate, FTC-I, Erode. The Trial Court had found the Petitioner/ accused guilty of the offence under Section 138 of the Negotiable Instruments Act and convicted and sentenced him to undergo six months Simple Imprisonment and to pay a fine of Rs.5000/-, in default to undergo 15 days Simple Imprisonment. In the appeal in Crl.A.No.165 of 2016, filed by the Petitioner/ accused, by the impugned judgement, the conviction and sentence passed by the Trial Court was confirmed. Hence, the present Criminal Revision Case has been filed, along with above Crl.MPs, seeking the reliefs as stated above.
- 3.This court heard the learned counsel on either side and also perused the materials placed on record.
- 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. He would further submit that during the pendency of the appeal, the Petitioner had paid a sum of Rs.1,40,000/- and that the Petitioner is prepared to deposit the balance amount in 50% of the cheque amounts.
- 5.The learned Additional Public Prosecutor would vehemently oppose for granting suspension of sentence.

6. 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 sentences 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) Since it is reported that the Petitioner/ accused had paid a sum of Rs.1,40,000/-, during the pendency of the appeal, the Petitioner/ accused is directed to deposit a sum of Rs.60,000/- (Rupees sixty thousands only), being the balance in 50% of the cheque amounts (in all Rs.3,92,126/-), 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 nationalised 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 Judicial Magistrate, (Fast Track Court), Erode.
- 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 Book 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 petitions 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.

-sd/-
06/09/2019

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 I ADDITIONAL DISTRICT
SESSIONS JUDGE, ERODE.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT-I, ERODE.

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

+1C.C. to M/S.S.KAMADEVAN Advocate on payment of necessary
charges SR NO.18820

Order

in
CRL MP.12801 & 12803/2019
in
CRL RC.874/2019

Date :06/09/2019

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

MK:13/09/2019