

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Monday, the Twenty First day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.14939 of 2019

in CRL.RC.NO.1104 OF 2019

S.RAMESH BABU

[ PETITIONER ]

Vs

N.S.WIN TRADERS, REP BY ITS  
PARTNER SHANMUGAM,

[ RESPONDENT ]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1104 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed by the order dated 13/07/2018 made in Crl.Appeal No.43/2017 on the file of the Principle District Court, Thiruvallur by confirming the judgement of the Judicial Magistrate Court Fast Track court at Magistrate level Ambattur, Chennai passed in S.T.C.No.83 of 2016 on 10/03/2017 and to allow the above Crl.RC.NO.1104 of 2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.1104 OF 2019 on the file of the High Court and upon hearing the arguments of M/S. S.SENTHILVEL, 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 13.07.2018, passed in Crl.A.No.43/2017, by the learned Principal District Court, Thiruvallur, by confirming the judgment, dated 10.03.2017, made in S.T.C.No.83/2016, by the learned Judicial Magistrate Court, Fast Track Court at Magisterial Level, Ambattur, Chennai, pending disposal of the Criminal Revision Case.
- 2.This court heard the learned counsel for the petitioner and also perused the materials placed on record.
- 3.In and by both the impugned judgements, for non-payment of the cheque amount in question, viz. Rs.5,54,936/-, 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 compensation of Rs.5,54,936/- (Rupees Five Lakhs Fifty Four Thousand Nine Hundred and Thirty Six Only), in default, to undergo One Month Simple

4. According to the learned counsel for the petitioner 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 suspension of sentence and bail are granted, on the following conditions :-

- a) The Petitioner/Accused shall surrender before the Trial Court and deposit 50% of the cheque amount (Rs.5,54,936/-), namely, Rs.2,77,468/- (Rupees Two Lakhs Seventy Seven Thousand Four Hundred and Sixty Eight 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 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, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Ambattur.
- 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 18.11.2019 for reporting compliance.

-sd/-

21/10/2019

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 COURT,  
FAST TRACK COURT AT MAGISTERIAL LEVEL,  
AMBATTUR, CHENNAI.

2 THE CHIEF JUDICIAL MAGISTRATE  
THIRUVALLUR (FOR INFORMATION)

3 THE PRINCIPAL DISTRICT COURT,  
THIRUVALLUR

C.C. to M/S. S.SENTHILVEL Advocate on payment of necessary charges

Order

in  
CRL MP.14939/2019

in CRL.RC.NO.1104 OF 2019

Date : 21/10/2019

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RVR 30/10/2019