

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Seventeenth day of September Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA
CRIMINAL MISCELLANEOUS PETITION No.12987 of 2019
IN CRL.RC.NO.902 OF 2019

M.DEVI

[PETITIONER]

Vs

E.M.SARATHI

[RESPONDENT]

Petition praying that in the circumstances stated therein the High Court will be pleased to suspend the sentence imposed in C.A.No.128/2018 on the file of the learned IV Addl.District and Sessions Judge, Thiruvallur at Ponneri and against the conviction and sentence imposed by the learned IV Addl.District and Sessions Judge, Thiruvallur at Ponneri in C.A.No.128 of 2018 dated 14.06.2019. confirming the conviction and the compensation passed by the Judicial Magistrate, thiruvotriyur by Judgment dated 20.03.2018 in S.T.C.No.299 of 2016 and enlarge the petitioner on bail till disposal of crl.R.C.No.902/2019 pending on the file of this Hon`ble court. [CRL.MP.NO.12987/2019]

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.V.PAARTHIBAN 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, 14.06.2019, made in Crl.A.No.128/2018, by the IV Additional District and Sessions Judge, Thiruvallur at Ponneri, confirming the conviction, sentence and the compensation, passed by the Judicial Magistrate, Thiruvotriyur, by judgment dated 20.03.2018, made in STC.No.299 of 2016, 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 and sentenced for the offence under Sections 138 of the Negotiable Instrument Act to undergo six months Rigorous Imprisonment and to pay a compensation of Rs.32,40,700/-, in default, to undergo one month Simple Imprisonment.

4. According to the learned counsel for the Petitioner/accused would submit that the courts below failed to take into consideration, the defect in the notice since the amount was not mentioned further, though there is a presumption against the accused for offence under Section 139 of Negotiable Instrument Act, the petitioner, in this case, by cross examination has proved that he was only liable to pay Rs.5,00,000/- and that he had issued a blank cheque to the respondent/complainant and it was also accepted by the complainant during his cross examination that the blank cheque was given to him. The petitioner by preponderance of probability has proved that the complainant was not capable of giving a huge amount of Rs.35,00,000/- to the petitioner/accused. 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. He would submit that the petitioner right from the beginning accepted that he is liable to pay the amount of Rs.5,00,000/- to the complainant and without prejudice his contention, the petitioner is prepared to deposit the amount of Rs.5,00,000/-. He would also submit that the petitioner is a lady and she is in custody from 28.08.2019, for the past about 20 days.

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.5,00,000/- (Rupees Five Lakhs 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 disbursal 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, each for a like sum to the satisfaction of the learned Judicial Magistrate, Thiruvotriyur.

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.

6. Post the matter on 16.10.2019 for reporting compliance.

-sd/-
17/09/2019

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 IV ADDITIONAL DISTRICT AND
SESSIONS JUDGE, THIRUVALLUR AT POONERI

2 THE JUDICIAL MAGISTRATE,
THIRUVOTRIYUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN,
PUZHAI, CHENNAI

+1 C.C. to M/S.V.PAARTHIBAN Advocate on payment of necessary charges SR.NO. 19348

WEB COPY
Order
in
CRL MP.12987/2019

IN CRL.RC.NO.902 OF 2019

Date : 17/09/2019

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RD 19/09/2019