

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Sixth day of September Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.13875 of 2019

IN CRL.RC.NO.989 OF 2019

MUSTHAFA

[PETITIONER]

Vs

DHANASEKARAN

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.989/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in STC No.662/2017 on the file of learned Judicial Magistrate cum Fast Track Judge II at Erode which was confirmed in C.A.No.37/2019 on the file of learned Principal Sessions Judge at Erode and release the petitioner on bail pending disposal of the above revision.[CRL.MP.NO.13875/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No. on the file of the High Court and upon hearing the arguments of M/S.K.S.KAVIARASU, 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 vide judgment, dated 17.10.2018, passed in S.T.C.No.662/2017, by the Judicial Magistrate Cum Fast Track Judge II, Erode, as confirmed in the judgment, dated 24.09.2019, made in Crl.A.No.37/2019, by the Principal Sessions Judge, Erode, 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 both the impugned judgements, for non-payment of the cheque amount in question, viz. Rs.3,50,000/-, the Petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, 1881, to undergo One Year Simple Imprisonment and to pay a fine of RS.3,000/- (Rupees Three Thousand Only), in default, to undergo

Three Months Simple Imprisonment and after deducting a sum of Rs.5,000/- from the cheque amount, which was already paid by the petitioner/accused to the complainant, to pay the balance of Rs.3,45,000/- as compensation to the complainant to be paid within a period of one month, in default, to undergo Three Months Simple Imprisonment.

4. According to the learned counsel for the Petitioner/accused, pursuant of the confirmation of sentence of imprisonment in the Appellate Court, the petitioner/accused was arrested on 25.08.2019 and he is in Judicial custody and that the petitioner/accused has now settled the entire amount of Rs.3,45,000/- to the respondent/complainant on 27.08.2019. 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. Mr.T.Muruganantham, the learned counsel representing Mr.Saravanan, learned counsel for the respondent would submit that the entire amount has been received by the respondent/complainant and that parties are prepared to compound the offence.
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 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 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-II, 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 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.

-sd/-

26/09/2019

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 JUDICIAL MAGISTRATE,
CUM FAST TRACK JUDGE-II.ERODE

2 THE PRINCIPAL SESSIONS
JUDGE, ERODE

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE[FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

+1 C.C. to M/S.K.S.KAVIARASU Advocate on payment of necessary charges SR.NO. 20066

सत्यमेव जयते

Order

in
CRL MP.13875/2019
WEB COPY

IN CRL.RC.NO.989 OF 2019

Date :26/09/2019

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format
RD 26/09/2019