

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Fifth day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.15430 of 2019

IN CRL.RC.NO.1145/2019

N.CHOLARAJA

[PETITIONER / ACCUSED]

Vs

V.KALAISELVI

[RESPONDENT / COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.1145/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner herein by Learned Judicial Magistrate / Fast Track Court No.II, Coimbatore in C.C.No.269 of 2015 dated 25.04.2017 pending disposal of the above Crl.RC.No.1145/2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.1145/2019 on the file of the High Court and upon hearing the arguments of M/S.M.SARAVANA KUMAR, 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 judgement, dated 25.04.2017 passed in C.C.No. 269 of 2015, by the learned Judicial Magistrate, Fast Track Court at Magisterial Level II, Coimbatore, confirming the judgement dated 03.07.2018 made in C.A.No.97/2017 by the learned IV Additional District and Sessions Judge, Coimbatore, 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.5,00,000/-, the Petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo one year simple Imprisonment and to pay a fine of Rs.10,000/-, and in default to undergo two months simple imprisonment.
- 4.According to the learned counsel for the Petitioner/ accused, 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. The learned

counsel for the petitioner would submit that the petitioner is now in prison. However, he would submit without prejudice to his contentions, the petitioner is prepared to deposit 25% of the cheque amount in question before the trial court after release on bail, within a time frame to be specified by this Court.

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 reliefs of suspension of sentence and bail are granted, on the following conditions :-

- i. The petitioner shall execute 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 at Magisterial Level -II, Coimbatore.
- ii. 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.
- iii. Within a period of three weeks, after coming out from the jail, the petitioner shall deposit 25% of the cheque amount (Rs.5,00,000/-), namely, Rs.1,25,000/- (Rupees One Lakh and twenty five 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 disbursal of this amount shall be decided at the culmination of the Criminal Revision Case.
- iv. 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 15.11.2019 for reporting compliance.

-sd/-

25/10/2019

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

TRUE COPY

TO

1 IV ADDITIONAL DISTRICT AND
SESSIONS JUDGE, COIMBATORE.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK AT MAGISTERIAL LEVEL II,
COIMBATORE.

3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

+1 C.C. to M/S.M.SARAVANA KUMAR Advocate on payment of necessary
charges SR.No.22092

Order

in
CRL MP.15430/2019

in
CRL.RC.1145/2019

Date :25/10/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
cs 25/10/2019

सत्यमेव जयते

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