

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Thirteenth day of September Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION Nos.13194 & 13197 of 2019

in Crl.RC.No.919 of 2019

T.S.JESURAJ

[PETITIONER]

Vs

M.SUBRAMANIAM

[RESPONDENT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.919 of 2019 on the file of the High Court, the High Court will be pleased to

(i)suspense the imprisonment imposed on the petitioner by the Appellate Court Judgment dated 29.07.2019 made in C.A.No.262/2018 (on the file of II Additional District Sessions Judge, Erode) confirming the judgment dated 13.07.2018 made in STC No.575/2017 on the file Judicial Magistrate, Fast Track No.I, Erode.(IN CRL.MP.NO.13194/2019)

(ii)exempt the petitioner to surrender before the appellate court, on the judgment dated 29.07.2019 made in C.A.No.262/2018 (on the file of II Additional District Sessions Judge, Erode) confirming the judgment dated 13.07.2018 made in STC No.575/2017 on the file Judicial Magistrate, Fast Track No.I, Erode.(IN CRL.MP.NO.13197/2019)

Order : These petitions coming on for orders upon perusing the petitions and the Memorandum of Grounds in Crl.Revision Case No.919 of 2019 on the file of the High Court and upon hearing the arguments of M/S.C.S.SARAVANAN, Advocate for the petitioner the court made the following order:-

1.This Criminal Miscellaneous Petition has been filed to suspend the sentences, imposed on the Petitioner/Accused in C.A.No.262/2018, by the learned II Additional District and Sessions Judge, Erode by judgement, dated 29.07.2019, confirming the conviction imposed in Judgment dated 13.07.2018 in S.T.C.No.575/2017, on the file of the learned Judicial Magistrate, Fast Track No.1, Erode and to enlarge the Petitioner/Accused on bail, pending disposal of the above Criminal Revision Case.

2.Crl.MP.No.13197 of 2019 has been filed for exempting the Petitioner from his surrender, pursuant to the judgement of conviction and sentence, passed by the learned II Additional District and Sessions Judge, Erode by judgement dated 29.07.2019, confirming the conviction imposed in Judgment dated 13.07.2018 in

S.T.C.No.575/2017, on the file of the learned Judicial Magistrate, Fast Track No.1, Erode pending disposal of the criminal revision case.

3.This court heard the learned counsel on either side and also perused the materials placed on record.

4.The facts, in a nutshell, are that, the petitioner/accused herein had borrowed a sum of Rs.1,80,000/- from the respondent/complainant on 27.06.2017 for his business needs and to discharge the said liability, on the same day, the petitioner/accused had issued a post dated cheque in favour of the complainant, bearing cheque No.141023, dated 27.07.2017, for a sum of Rs.1,80,000/- when the complainant had presented the said cheque for collection on 16.10.2017, and the same was returned on the ground of "Insufficient Funds". Hence, on 14.11.2017, the complainant had issued Legal notice to the petitioner/accused calling upon him to pay the cheque amount and the same was returned as "Not claimed" on 15.11.2017. Therefore, the complainant has preferred a private the complaint for the offence under Section 138 of the Negotiable Instruments Act, before the learned Judicial Magistrate, Fast Track Court No.1, Erode in STC.No.575/2017, wherein the petitioner/accused was found guilty for the offence under Section 138 of the Negotiable Instruments Act and convicted and sentenced to undergo six months Simple Imprisonment and to pay a sum of Rs.1,80,000/- (Rupees One lakh Eighty Thousand Only) towards compensation, to the complainant, in default, to undergo Simple Imprisonment for two months. As against the said judgement of conviction and sentence, the Petitioner/Accused had preferred an appeal in CA.No.262 of 2018, before the II Additional District and Sessions Judge, Erode and the said appeal was dismissed, by the impugned judgement. Hence, the above Criminal Revision Case has been filed, along with above Crl.MP, seeking the relief as stated above.

5.The learned counsel for the Petitioner/accused would submit that there are arguable points available in the Criminal Revision Case and that the revision petitions 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 and that the petitioner may be exempted from surrendering before the Trial Court.

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 reliefs of exemption from surrender before the Court, suspension of sentence and bail are granted on the following conditions :-

a) The Petitioner/Accused shall deposit 50% of the cheque amount (Rs.1,80,000/-), namely, Rs.90,000/- (Rupees Ninety

Thousand 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 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), Magisterial Level II, Poonamallee.

- b) 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 learned Judicial Magistrate, FTC-1, Erode.
- c) 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 his Aadhaar Card or Bank pass Book to ensure his identities.
- d) 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.
- e) 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.

7. Post the matter on 11.10.2019 for reporting compliance.

-sd/-

13/09/2019

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,
FAST TRACK NO.I, ERODE.

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE(FOR INFORMATION)

3 THE JUDICIAL MAGISTRATE, (FAST TRACK COURT)
MAGISTERIAL LEVEL II, POONAMALLEE

4 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR(FOR INFORMATION)

5 II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, ERODE.

C.C. to M/S.C.S.SARAVANAN Advocate on payment of necessary
charges SR.19139

Order

in

CRL MP.Nos.13194 & 13197 of 2019

in Crl.RC.No.919 of 2019

Date :13/09/2019

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

RVR 17/09/2019

सत्यमेव जयते

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