

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Sixteenth day of September Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.13166 of 2019

in CRL.RC.No.916 OF 2019

R.VEERAMANI

[PETITIONER]

Vs

C.YOGANATHAN

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.916 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence confirmed in C.A.No.364/2018 on the file of II Additional District Sessions Judge, Erode dated 18.07.2019 against the order passed by Judicial Magistrate, Fast Track Court I, Erode in STC No.374/2017 dated 17.10.2018 pending disposal of the above Crl.RC.No.916/2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.916 of 2019 on the file of the High Court and upon hearing the arguments of M/S.M.VIVEKANANDAN, Advocate for the petitioner the court made the following order:-

- 1.These Criminal Miscellaneous Petitions have been filed by the Petitioner/Accused to suspend the sentence of imprisonment, confirmed by the judgment, dated 18.07.2019 made in Crl.A.No.364/2018, by the II Additional District Sessions Judge, Erode, against the judgment, dated 17.10.2018 passed in STC.No.374 of 2017, by the learned Judicial Magistrate, Fast Track Court-I, Erode and to exempt the Petitioner from surrendering before the Trial Court, in connection with the conviction and sentence, imposed in STC.No.374 of 2017, by the Judicial Magistrate, Fast Track Court-I, Erode by judgement, dated 17.10.2018, respectively, 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.The facts, in a nutshell, are that the Petitioner/ accused had borrowed a sum of Rs.5,00,000/- from the complainant for his family urgent expenses on 19.03.2017 and on the same day, he had executed a loan deed. On demand, in order to discharge the said loan amount, the Petitioner/ accused had issued a cheque, dated 14.06.2017, bearing No.773593, for a sum of Rs.5,00,000/-. When the said cheque for presented for collection on 30.06.2017, it was

returned unpaid on the ground of insufficient funds, on the same day. Hence, a legal notice, dated 05.07.2017, came to be issued by the complainant to the accused home and official address and the said legal notice was received by the accused on 06.07.2017 and 07.07.2018 at home and office address respectively and thereafter, there was no reply from the Petitioner/ accused. Hence, the complainant had filed a private complaint for the offence under Section 138 r/w 142 of the Negotiable Instruments Act, before the Judicial Magistrate, Fast Track Court-I, Erode, in STC.No.374 of 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 one year Simple Imprisonment and to pay a sum of Rs.5,00,000/- (Rupees five Lakhs Only) as compensation to the complainant, in default, to undergo two months weeks Simple Imprisonment. As against the said judgement of conviction and sentence, the Petitioner/ accused had preferred an appeal Crl.A.No.364/2018, before the II Additional District 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.MPs, seeking the relief as stated above.

4.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.

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 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.2,50,000/- (Rupees Two Lakhs and Fifty 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-1), 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.

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 16.10.2019 for reporting compliance.

-sd/-

16/09/2019

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.

सत्यमेव जयते

TO

1 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT I, ERODE.

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE (FOR INFORMATION)

WEB COPY

3 II ADDITIONAL DISTRICT
SESSIONS JUDGE, ERODE.

C.C. to M/S.M.VIVEKANANDAN Advocate on payment of necessary
charges sr.19206

Order

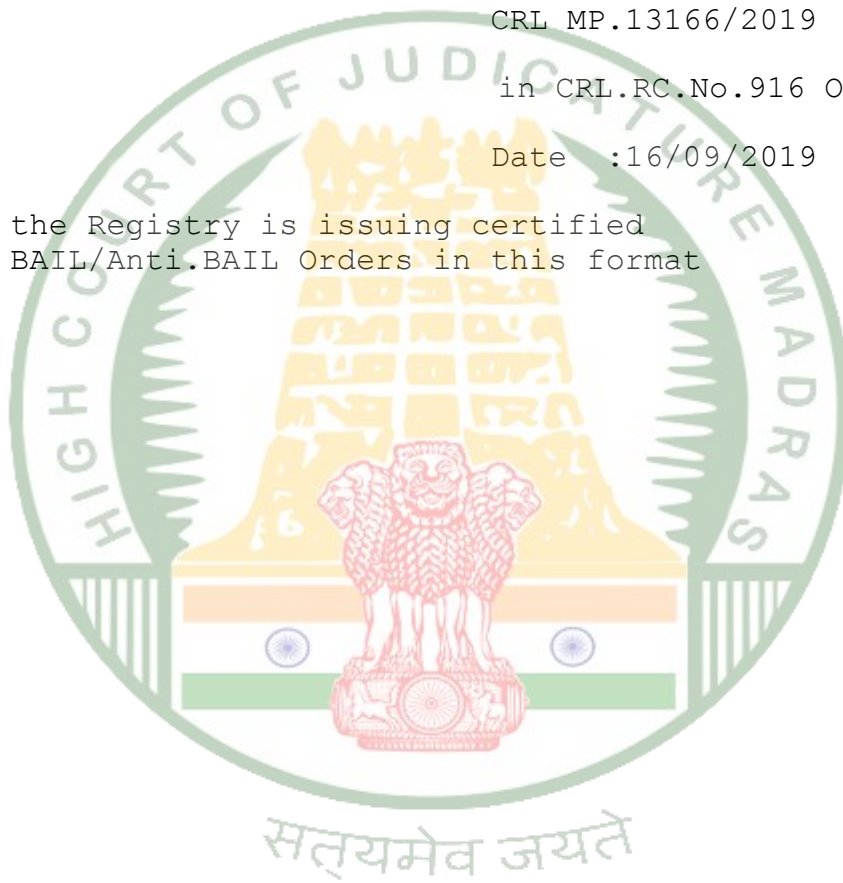
in
CRL MP.13166/2019

in CRL.RC.No.916 OF 2019

Date :16/09/2019

From 7.2.2001 the Registry is issuing certified
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RVR 19/09/2019



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