

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 NOS.13272 & 13273 OF 2019

IN CRL.RC.NO.925 OF 2019

M.RAJAN

[PETITIONER]

Vs

M.BASKAR

[RESPONDENT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.925 OF 2019 on the file of the High Court, the High Court will be pleased to

[i] suspension of sentence passed in Judgment dated 31.07.2019 in Crl.Appeal No.44 of 2019 on the file of Principal Sessions Court, Erode confirming the Judgment dated 10.01.2019 passed in S.T.C. No.228/2016 on the file of Judicial Magistrate Fast Track Court-I, Erode pending disposal of the CRL.RC.NO.925 OF 2019 [IN CRL.MP.NO.13272 OF 2019]

[ii] exemption to the petitioner from surrendering to undergo the sentence passed in Judgment dated 31.07.2019 in Crl.Appeal No.44 of 2019 on the file of Principal Sessions Court, Erode confirming the Judgment dated 10.01.2019 passed in S.T.C.No.228/2016 on the file of Judicial Magistrate Fast Track Court-I, Erode pending disposal of the CRL.RC.NO.925 OF 2019 [IN CRL.MP.NO.13273 OF 2019]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.925 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.K.BALAGANESH, 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, imposed by the judgment, dated 31.07.2019 made in Crl.A.No.44/2019, by the Principal Sessions Court, Erode, confirming the judgment, dated 10.01.2019 passed in STC.No.228 of 2016, by the Judicial Magistrate Court, 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.228 of 2016, by the Judicial Magistrate Court, Fast Track Court-I, Erode by judgement, dated 10.01.2019, 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 on 28.11.2015, the Petitioner/accused had borrowed a sum of Rs.2,00,000/- from the complainant and on demand, in order to discharge the said amount, the Petitioner/accused had issued a cheque, dated 05.12.2015, bearing No.270168 drawn on Canara Bank, Nanjai Uthukuli Branch, for a sum of Rs.2,00,000/-. When the said cheque for presented for collection on 05.12.2015 through IndianOverseas Bank, Periyar Nagar Branch, Erode, it was returned unpaid on the ground of insufficient funds, on 14.12.2015. Hence, a legal notice, dated 16.12.2015, came to be issued by the complainant and the said legal notice was received on 19.12.2015 by the petitioner/accused and thereafter, there was no reply from the Petitioner/accused. Hence, the complainant had filed a private complaint for the offence under Section 138 of the Negotiable Instruments Act, before the Judicial Magistrate, FTC, Magisterial Level I, Erode, in STC.No.228 of 2016, 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.2,00,000/- (Rupees Two Lakhs Only) as compensation to the complainant, in default, to undergo two months Simple Imprisonment. As against the said judgement of conviction and sentence, the Petitioner/accused had preferred an appeal in CA.No.44 of 2019, before the Principal 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.2,00,000/-), namely, Rs.1,00,000/- (Rupees One Lakh 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 I, 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.

TO

1 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT NO.I, ERODE.

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

3 THE PRINCIPAL SESSIONS COURT,
ERODE.

<https://hcservices.ecourts.gov.in/hcservices/>

+2C.C. to M/S.K.BALAGANESH Advocate on payment of necessary charges SR NO.19202

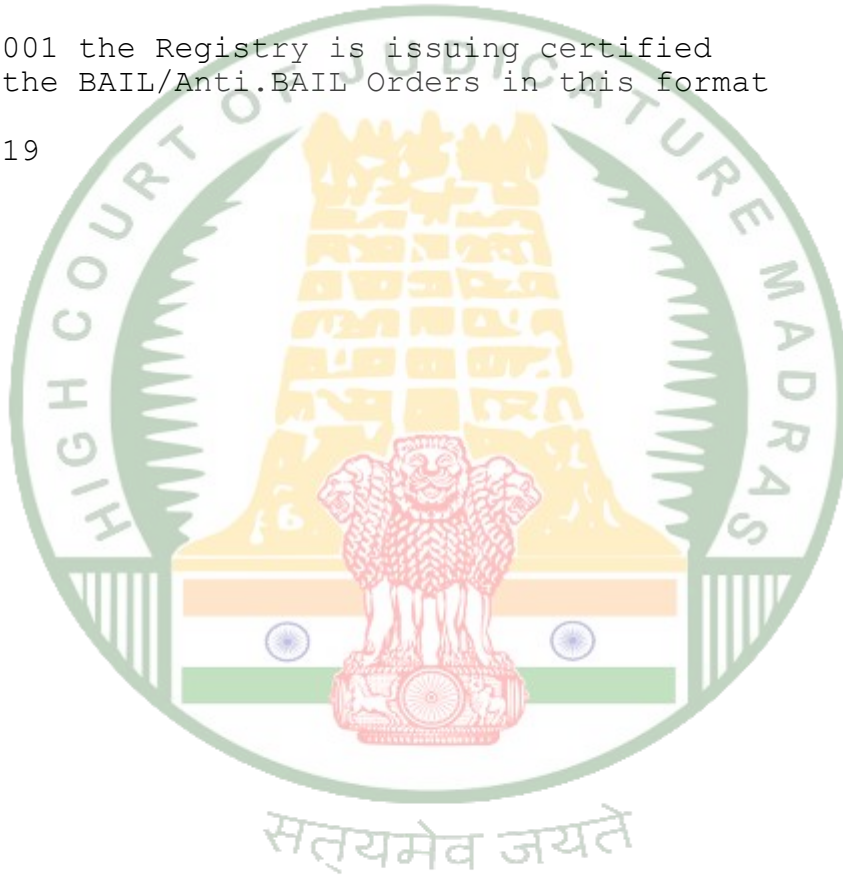
Order

in
CRL MP.13272 & 13273 OF 2019
in
CRL.RC.925/2019

Date :16/09/2019

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

MK:19/09/2019



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