

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eighteenth day of September Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.13344 of 2019

IN CRL.R.C.NO.935 OF 2019

R.SEKAR

[PETITIONER]

Vs

S.RANGANATHAN

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.935 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence in CC.No.88 of 2012 dated 06.11.2013 on the file of Judicial Magistrate, Fast Track Court-II at Poonamalle in reversal order passed in Crl.Appeal No.108/2018 dated 03.09.2019 passed by the III Additional District Sessions at Poonamalle and grant relief or reliefs.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.935 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.D.VIJAYAN, 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 03.09.2019, made in Crl.A.No.108/2018 by the III learned Additional District Sessions Judge, Ponnammallee, reversing the judgement of acquittal passed in CC.No.88/2012 dated 06.11.2013 by the Judicial Magistrate, Fast Track Court, (Magisterial Level II) Ponnammallee, pending disposal of the Criminal Revision.
- 2.This court heard the learned counsel on either side and also perused the materials placed on record.
- 3.In and by the impugned judgement of the Appellate Court, the Petitioner/ accused was convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo eight months Simple Imprisonment and to pay compensation of Rs.10,08,000/- within two months, in default, to undergo four months Simple Imprisonment.
- 4.The learned counsel for the petitioner would submit that even as per the complaint the amount alleged to have been borrowed by the

petitioner was Rs.3,00,000/- (Rupees Three Lakhs Only) and that with interest, the cheque was stated to have been issued for an amount of Rs.5,04,000/- and the trial Court had while acquitting the petitioner had imposed a condition to pay a compensation of Rs.10,08,000/- which was awarded as twice the cheque amount. He would submit that originally the trial Court had acquitted him and the order of acquittal was reversed by the Appellate Court and the petitioner has been convicted. According to the learned counsel for the Petitioner/ accused, there are arguable points available in the Criminal Appeal, 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 Appeal and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended. He would submit the cheques were issued prior to introduction of Section 143 A of Negotiable Instruments Act, but however, the petitioner, without prejudice to his contention is ready and willing to deposit 10% of the compensation amount awarded by the Lower Appellate 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, the substantive sentence of imprisonment alone is suspended and the Petitioner/ accused is ordered to be enlarged on bail, on the following conditions:-

- i. The Petitioner/ accused shall deposit a sum of Rs.1,08,000/- (Rupees One Lakh Eight Thousand only), within a period of two weeks from the dated of receipt of copy of this order before the Judicial Magistrate, Fast Track Court, (Magisterial Level II) Ponnammallee .
- ii. The Petitioner/ accused shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate, Fast Track Court, (Magisterial Level II) Ponnammallee .
- iii. The Petitioner/accused shall report before the Judicial Magistrate, Fast Track Court, (Magisterial Level II) Ponnammallee on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-

18/09/2019

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

TRUE COPY

TO

1 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT (MAGISTERIAL LEVEL II)
PONNAMALLEE.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

3 III ADDITIONAL DISTRICT
SESSIONS JUDGE, PONNAMALLEE.

C.C. to M/S.D.VIJAYAN Advocate on payment of necessary charges
SR.NO.19769

Order

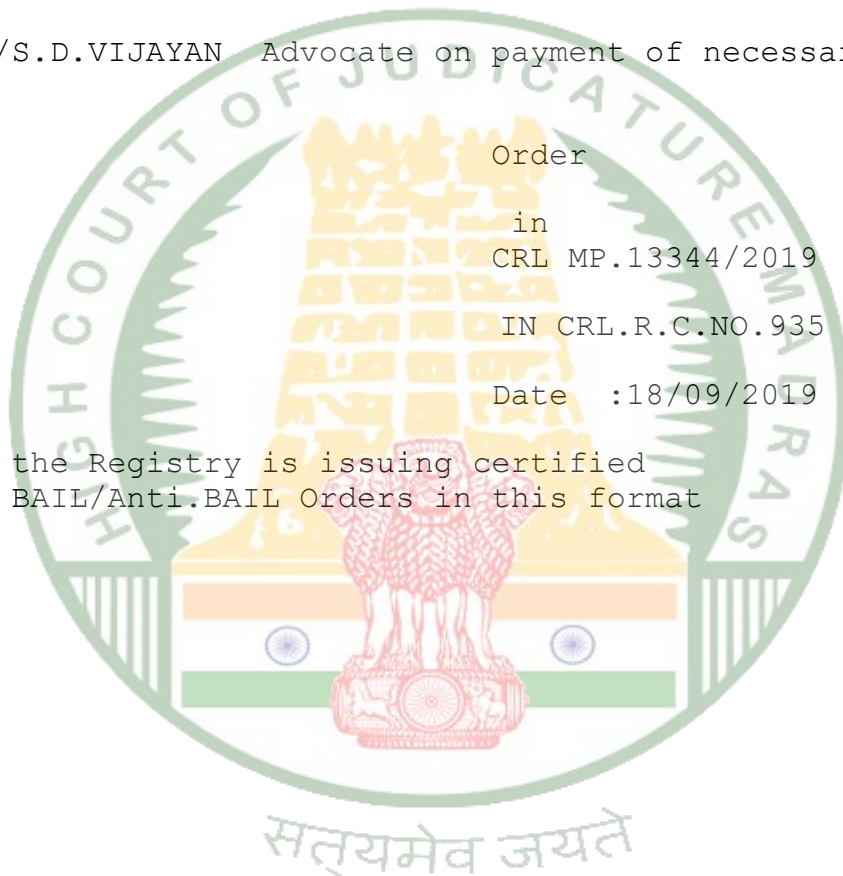
in
CRL MP.13344/2019

IN CRL.R.C.NO.935 OF 2019

Date :18/09/2019

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

RVR 25/09/2019



WEB COPY