

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Fourth day of September Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.13496 & 13499 of 2019

IN CRL.R.C.NO.952 of 2019

G.MURUGESAN

[PETITIONER IN BOTH THE PETITIONS]

Vs

C.DURAISWAMY

[RESPONDENT [IN BOTH THE PETITIONS]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence imposed in the judgment dated 16.07.2019 made in C.A.No.01 of 2019 on the file of the Learned Principal District and Sessions Judge, Namakkal reversing the acquittal in Judgment dated 23.02.2015 made in S.T.C.No.199 of 2011 on the file of the Learned Judicial Magistrate Paramathi, Namakkal and enlarge the petitioner on bail pending disposal of the above Crl.R.C.No.952 of 2019. (Crl.M.P.NO.13496/2019)

(ii) To grant an order of exemption from surrendering before the trial court in pursuance to the judgment dated 16.07.2019 made in C.A.No.01 of 2019 on the file of the Learned Principal District and Sessions Judge, Namakkal reversing the acquittal in Judgment dated 23.02.2015 made in S.T.C.No.199 of 2011 on the file of the Learned District Munsif Cum Judicial Magistrate Paramathi, Namakkal, pending disposal of the above Crl.R.C.No.952 of 2019. (Crl.M.P.NO.13499/2019)

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.E.C.RAMESH, Advocate for the petitioners, [IN BOTH THE PETITIONS] the court made the following order:-

1. These Criminal Miscellaneous Petitions have been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed vide judgment, dated 16.07.2019, made in Crl.A.No.01/2019, by the learned Principal District and Sessions Judge, Namakkal, reversing the judgment of acquittal passed in S.T.C.No.199/2011, dated 23.02.2015, by the Judicial Magistrate, Paramathi, Namakkal and to exempt the petitioner/accused, from surrendering before the

Trial Court, in connection with the conviction and sentence imposed by the judgment, dated 16.07.2019, made in CrI.A.No.01/2019, by the Judicial District and Sessions Judge, Namakkal, 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. In and by both the impugned judgement of the Appellate Court, the petitioner/accused was convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo six months Simple Imprisonment and to pay 20% of the compensation on the cheque amount and also to pay 20% of the compensation amount as fine in default to undergo One Month Simple Imprisonment
4. The learned counsel for the Petitioner/accused would submit that even as per the complaint, the amount alleged to have been borrowed by the petitioner was Rs.10,00,000/- (Rupees Ten Lakhs only) and that the cheque was stated to have been issued for an amount of Rs.10,00,000/- and that the Trial Court had acquitted the petitioner, the Lower Appellate Court had imposed a condition to pay 20% of the compensation of the cheque amount. He would submit that originally the Trial Court had acquitted him and the order of acquittal was reversed by the Lower 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 Revision, 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 and that though the cheque is dated 05.01.2011, the petitioner, without prejudice to his contention is ready and willing to deposit 20% of the cheque amount, namely Rs.2,00,000/- (Rupees Two Lakhs Only).
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 Trial Court, suspension of sentence and bail are granted, on the following conditions :-
 - a) The Petitioner/Accused shall deposit 20% of the cheque amount (Rs.10,00,000/-), namely, Rs.2,00,000/- (Rupees Two Lakhs 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 Criminal Revision Case. 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, Paramathi, Namakkal.
 - 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.

Post the matter on 23.10.2019 for reporting compliance.

-sd/-

26/09/2019

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 PRINCIPAL DISTRICT AND
SESSIONS JUDGE, NAMAKKAL.

2 THE DISTRICT MUNSIF-CUM
JUDICIAL MAGISTRATE, PARAMATHI.

3 THE JUDICIAL MAGISTRATE,
PARAMATHI.

4 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

+1 C.C. to M/S. E.C.RAMESH Advocate on payment of necessary charges SR.NO.20031

WEB COPY

Order

in

CRL MP.13496 & 13499/2019

in

CRL.R.C.NO.952/2019

Date :26/09/2019

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