

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Friday, the Fourth day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.14417 of 2019

IN CRL.R.C.NO.1054 of 2019

NOEL DESS LAZARUS [ PETITIONER ]

Vs

K.KATHIRVEL [ RESPONDENT ]

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 C.C.No.489 of 2011 on the file of the Judicial Magistrate Court, Fast Track Court at Magisterial Level II Coimbatore.

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. C.DEIVASIGAMANI, Advocate for the petitioner, and of M/S.SESHACHALAM, on behalf of the Respondents, 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 by the judgment, dated 09.03.2016 passed in C.C.No.489 of 2011, by the Judicial Magistrate Court, Fast Track Court, (Magisterial Level-II), Coimbatore, as confirmed in the judgment, dated 26.10.2018, made in Crl.A.No.39/2016, by the IV Additional District and Sessions Judge, Coimbatore, 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 judgements, for non-payment of the cheque amount in question, viz. Rs.4,00,000/-, the Petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo one year Simple Imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand Only), in default, to undergo two months Simple Imprisonment.
- 4.According to the learned counsel for the petitioner, there are arguable points available in the Criminal Revision Case, 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 Case and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended. The petitioner/accused has paid the entire amount to the respondent/complainant.

5. The learned counsel for the respondent/complainant would submit that he received the entire amount and the parties are also preparing to file necessary application for compounding the offences.

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, suspension of sentence and bail are granted, on the following conditions :-

- a) The Petitioner/Accused is ordered to be released on bail, on his executing a bond for a sum of Rs.25,000/- (Rupees twenty five 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 Court, Fast Track Court, (Magisterial Level-II), Coimbatore.
- 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.

Post the matter on 18.10.2019.

-sd/-

04/10/2019

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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 COURT, FAST TRACK  
COURT, (MAGISTERIAL LEVEL-II), COIMBATORE,

2 THE CHIEF JUDICIAL MAGISTRATE  
COIMBATORE. [FOR INFORMATION]

3 THE IV ADDITIONAL DISTRICT AND SESSIONS  
JUDGE, COIMBATORE,

+1 C.C. to M/S. C.DEIVASIGAMANI Advocate on payment of  
necessary charges SR.NO.20791

Order

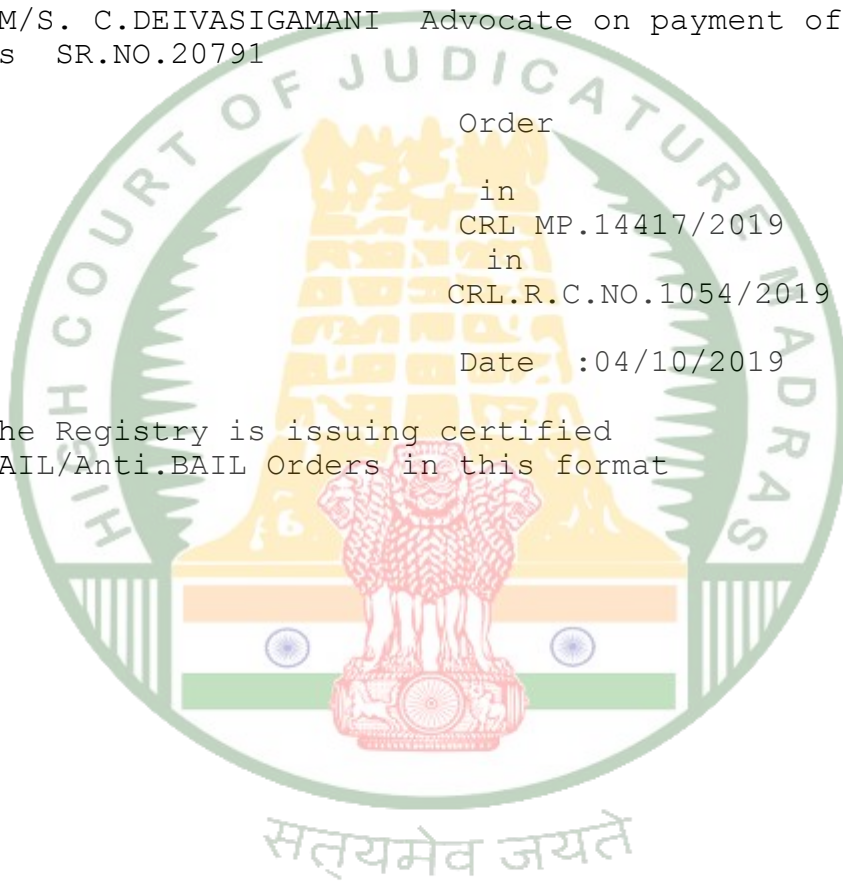
in  
CRL MP.14417/2019

in  
CRL.R.C.NO.1054/2019

Date :04/10/2019

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

TA-04/10/2019



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