

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Fifteenth day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION Nos.14625 & 14626 of 2019

IN CRL.RC.NO.1077 OF 2019

S.S.PERUMAL

[PETITIONER]

Vs

ABHISHEK MODI

[RESPONDENT]

DIRECTOR,

MOD FORGE PRIVATE LIMITED

REP. BY ITS POWER OF ATTORNEY

MR.MOHAN, MANAGER.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.1077/2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the order of sentence dated 21.08.2019 in C.A.No.156 of 2017 on the file of the III Additional District and Sessions Judge, Thiruvallur at Poonamallee confirming the judgment of conviction and sentence dated 05.10.2017 in STC No.410 of 2016 on the file of the Judicial Magistrate, Fast Track Court (Magisterial Level), Ambattur, pending disposal of this Crl.RC.No.1077/2019. [IN CRL.MP.NO.14625/2019]

[ii] exemption from surrendering before the trial Court in pursuance of the judgment dated 21.08.2019 in C.A.No.156 of 2017 on the file of the III Additional District and Sessions Judge, Thiruvallur at Poonamallee confirming the conviction imposed in the judgment dated 05.10.2017 in STC No.410 of 2016 on the file of the Judicial Magistrate, Fast Track Court (Magisterial Level), Ambattur, pending disposal of this Crl.RC.No.1077/2019. [IN CRL.MP.NO.14626/2019]

Order : These petitions coming on for orders upon perusing the petitions and the Memorandum of Grounds in Crl.RC.No.1077/2019 on the file of the High Court and upon hearing the arguments of M/S.AL.GANTHIMATHI, Advocate for the petitioner the court made the following order:-

These Criminal Miscellaneous Petitions have been filed by the Petitioner/Accused, seeking suspension of sentence, imposed by the III Additional District and Sessions Judge, Thiruvallur at Poonamallee, in Crl.A.No.156 of 2017, dated 21.08.2019, modifying the sentence imposed by the Judicial Magistrate, Fast Track Court (Magistrate Level), Ambattur, in STC.No.410 of 2016, dated 05.10.2017 and to exempt the Petitioner/ Accused, from surrendering before the

Trial Court, in connection with the conviction and sentence, pending disposal of the Criminal Revision Case.

2. 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.4,54,781/-, the Petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo eight months Simple Imprisonment and directed to pay twice the cheque amount of Rs.9,09,562/- as compensation to the Respondent/complainant, in default, to undergo two months simple imprisonment.

4. According to the learned counsel for the Petitioner/accused, 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 and 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 Trial Court, suspension of sentence and bail are granted, on the following conditions :-

- a) The Petitioner/Accused shall deposit 50% of the cheque amount (Rs.4,54,781/-), namely, Rs.2,27,390/- before the Trial Court, within six 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.
- b) Thereafter, the Petitioner/Accused is directed to surrender before the trial Court within six weeks from the date of receipt of receipt of a copy of this order and on such surrender, he 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 (Magistrate Level), Ambattur.
- c) 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.

d) 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.

e) 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 after six weeks for reporting compliance.

-sd/-

15/10/2019

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 III ADDITIONAL DISTRICT AND
SESSIONS JUDGE,
THIRUVALLUR AT POONAMALLEE

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT (MAGISTERIAL LEVEL)
AMBATTUR

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

C.C. to M/S.AL.GANTHIMATHI Advocate on payment of necessary charges

Order

in
CRL MP.Nos.14625 & 14626/2019
in
CRL.RC.1077/2019

Date :15/10/2019