

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Fourth day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.15246 & 15247 of 2019

IN CRL.RC.NO.1138 OF 2019

C.PALANISAMY

[PETITIONER]

vs

P.MUTHURAJ

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1138/2019 on the file of the High Court, the High Court will be pleased to

[I] suspend the sentence imposed in C.A. NO. 81/2016 on the file of the III Additional District and Sessions Judge, Coimbatore confirming the Judgement Dt.26/05/2019 made in C.C. No.99/2007 on the file of the Judicial Magistrate 2, Pollachi subject to conditions imposed by this Hon'ble Court Pending disposal of the above Crl.Rc. [CRL.MP.NO.15246/2019]

[II] Exempt the petitioner from surrender before the learned Judicial Magistrate No.2, Pollachi in C.C. No.99/2007 dated 26.05.2016 in execution of sentence on any conditions that may be imposed by this Hon'ble court pending above Crl.Rc. [CRL.MP.NO.15247/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.1138/2019 on the file of the High Court and upon hearing the arguments of MR. Advocate for the petitioner and of MR. on behalf of the Respondent 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 31.01.2019 made in Crl.A.No.81/2016, by the learned III Additional District and Sessions Judge, Coimbatore as confirmed in the judgment, dated 26.05.2016 passed in C.C.No.99/2007, by the learned Judicial Magistrate No.2, Pollachi and to exempt the Petitioner from surrendering before the Trial Court, in connection with the conviction and sentence, imposed in C.C.No.99/2007, by the learned Judicial Magistrate No.2, Pollachi, by judgement, dated 26.05.2016, respectively, pending disposal of

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 of the Trial Court and the Appellate Court, the petitioner/accused was convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo One Year Simple Imprisonment and to pay Rs.2,30,000/- as compensation to be paid within a period of three months from the date of that judgment, in default to undergo Three Months Simple Imprisonment.

4. 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 without prejudice to his contention, the petitioner is ready and willing to deposit 50% of the cheque amount, namely Rs.1,15,000/- (Rupees One lakh Fifteen Thousand only). He would further submit that the petitioner has suffered head injury and he was hospitalised and has spent considerable amount for treatment and thereby, he would pray that six weeks time may be granted for making payment and would submit that the Trial Court has issued conviction warrant against him.

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 a sum of Rs.1,15,000/- (Rupees One Lakh Fifteen Thousand Only) before the Trial Court, within a period of 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 disbursement 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 No.2, Pollachi.

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 21.11.2019 for reporting compliance.

-sd/-

24/10/2019

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 THE III ADDITIONAL DISTRICT
AND SESSIONS JUDGE, COIMBATORE

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE JUDICIAL MAGISTRATE,
NO.2, POLLACHI

+1 C.C. to R.NANDHAKUMAR Advocate on payment of necessary
charges SR.NO. 21939

Order

in
CRL MP.15246 & 15247/2019

IN CRL.RC.NO.1138 OF 2019

Date : 24/10/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 24/10/2019