

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Fourteenth day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION NOS.14493 & 14996 OF 2019

IN CRL.RC.NO.1064 OF 2019

S.NATARAJ

[PETITIONER]

Vs

R.SENTHILKUMAR

[RESPONDENT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.1064 OF 2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence of imprisonment imposed on the petitioner in the judgment dated 04.07.2019 made in C.A.No.60 of 2017 on the file of the learned Principal Sessions Court, Namakkal by reversal of the judgment of acquittal dated 11.09.2017 made in CRL.RC.NO.104 OF 2016 on the file of the learned Judicial Magistrate/Fast Track Court, Tiruchengode and enlarge the petitioner on bail pending disposal of the above CRL.RC.NO.1064 OF 2019 [IN CRL.MP.NO.14493 OF 2019]

[ii] grant an order of exemption from surrendering before the trial court pursuant to the judgment dated 04.07.2019 made in C.A.No.60 of 2017 on the file of the learned Principal Sessions Court, Namakkal reversal of the judgment of acquittal dated 11.09.2017 made in S.T.C.NO.104 of 2016 on the file of the learned Judicial Magistrate/Fast Track Court, Tiruchengode, CRL.RC.NO.1064 OF 2019 [IN CRL.MP.NO.14496 OF 2019]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.1064 OF 2019 on the file of the High Court and upon hearing the arguments of M/S. N.MANOKARAN Advocate for the petitioner, 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 04.07.2019, made in Crl.A.No.60/2017, by the learned Principal Sessions Court, Namakkal, reversing the judgment of acquittal passed in S.T.C.No.104/2016, dated 11.09.2017, by the Judicial Magistrate/Fast Track Court, Tiruchengode and enlarge the petitioner on bail and to exempt the petitioner/accused, from

conviction and sentence imposed by the judgment, dated 04.07.2019, made in CrI.A.No.60/2017, by the Principal Sessions Court, 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 the Trial Court had acquitted him finding that the cheque had been stolen and that the petitioner had also given a complaint against the complainant in respect of the stolen cheque. 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 09.02.2015 and alleged to be issued prior to the Amendment of Section 143-A of the Negotiable Instruments Act, the Appellate Court had directed to pay 20% of the cheque amount as compensation. He would however submit that the petitioner without prejudice to his contention is ready and willing to deposit 10% of the cheque amount, namely Rs.27,500/- (Rupees Twenty Seven Thousand Five Thousand 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 10% of the cheque amount (Rs.2,75,000/-), namely, Rs.27,500/- (Rupees Twenty Seven Thousand Five Hundred 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/Fast Track Court, Tiruchengode.

- 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 11.11.2019 for reporting compliance.

-sd/-

14/10/2019

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 JUDICIAL MAGISTRATE/
FAST TRACK COURT, TIRUCHENGODE.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL [FOR INFORMATION]

3 THE PRINCIPAL SESSIONS COURT,
NAMAKKAL.

+2C.C. to M/S. N.MANOKARAN Advocate on payment of necessary
charges SR NOS.21080, 21081

Order

in

CRL MP.14493 & 14496 OF 2019

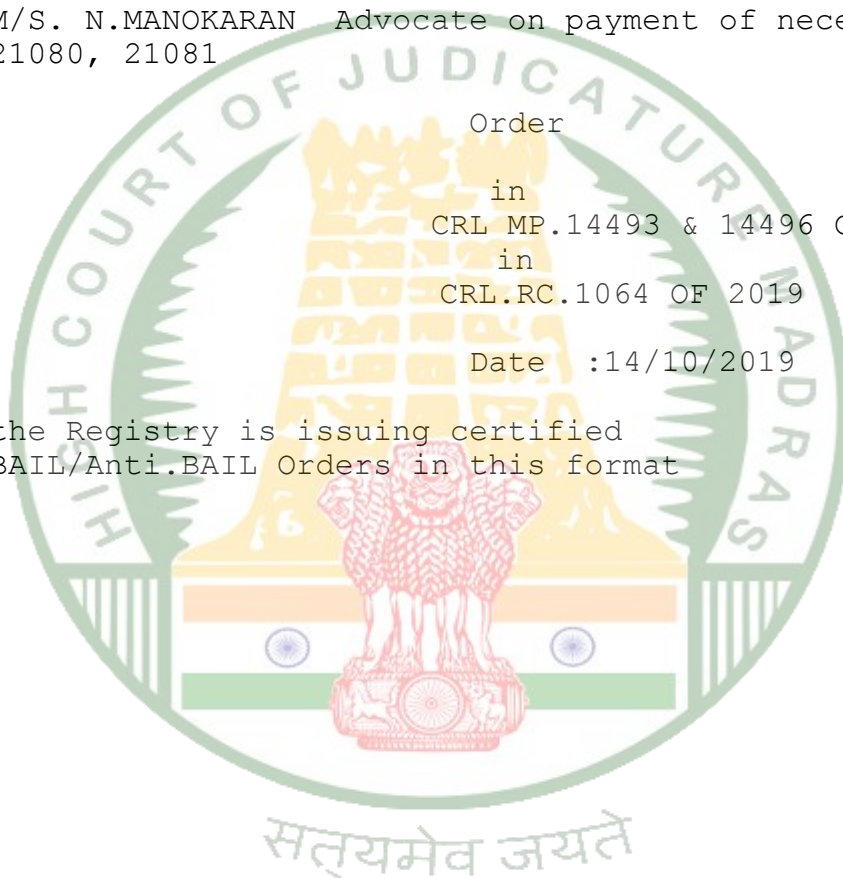
in

CRL.RC.1064 OF 2019

Date :14/10/2019

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MK:16/10/2019



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