

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Third day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.14152 & 14149 of 2019

IN CRL RC.1017/2019

P.PAKIRISAMY

[PETITIONER]

Vs

K.SRINIVASAN

[RESPONDENT]

Petition praying that in the circumstances stated therein the High Court will be pleased to

[i]exempt the petitioner to surrender before the Metropolitan Magistrate, FTC-II, Egmore, Chennai in CC.No.1227 of 2012 pending disposal of the above criminal revision petition. [CRL.MP.NO.14152/2019]

[ii]suspend the sentence imposed on the petitioner in judgment made by the IV Additional Sessions Judge, chennai in C.A.No.139 of 2015 daated 11.03.2019 and C.C.NO.1227 OF 2012 Metropolitan Magistrate, Fast Track court-II, Egmore, Chennai till the disposal of the above criminal revision petition. [CRL.MP.NO.14149/2019]

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.R.MURUGABHARATHI 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 by the judgment, dated 11.03.2019 passed in C.A.No.139 of 2015, by the IV Additional Sessions Judge, Chennai, confirming the judgment, dated 19.06.2015, made in C.C.No.1227/2012, by the Metropolitan Magistrate, Fast Track Court-II, Egmore, Chennai, and to exempt the Petitioner/ Accused, from surrendering before the Trial Court, in connection with the conviction and sentence, imposed by the judgment, dated 01.11.2017, made in C.C.No.1227/2012, by Metropolitan Magistrate Fast Track Court-II, Egmore, Chennai, 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 judgements, for non-payment of the cheque amount in question, viz. Rs.2,00,000/-, 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 sum of Rs.2,00,000/- (Rupees two Lakhs Only), as compensation to the Respondent/complainant.

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.2,00,000/-), namely, Rs.1,00,000/- (Rupees One Lakh 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 Metropolitan Magistrate, Fast Track Court-II, Egmore, Chennai

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 31.10.2019 for reporting compliance.

-sd/-

03/10/2019

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 METROPOLITAN MAGISTRATE,
FAST TRACK COURT-II, EGMORE, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE [FOR INFORMATION]

3 THE IV ADDITIONAL SESSIONS
JUDGE, CHENNAI

+2 C.C. to M/S.R.MURUGABHARATHI Advocate on payment of
necessary charges SR.NO. 20564

Order

in
CRL MP.14152 & 14149/2019

in
CRL RC.1017/2019

Date :03/10/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 03/10/2019