

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Fifth day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION NOS.15432 & 15437 OF 2019

IN CRL.RC.NO.1146 OF 2019

P.KRISHNAVENI

[PETITIONER / APPELLANT / ACCUSED]

Vs

A.SUBRAMANI

[RESPONDENT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.1146 OF 2019 on the file of the High Court, the High Court will be pleased to

[i]suspend the sentence imposed by the Learned III Additional Sessions Judge, Vellore at Tirupattur, passed in Crl.A.No.6 of 2017 dated 14.03.2019 confirming the order of the Learned Judicial Magistrate No.I, Tirupattur passed in S.T.C.No.1069 of 2014 dated 22/11/2016, convicting the petitioner and sentenced to undergo 6 months simple imprisonment for offence under section 138 of the Negotiable Instruments Act, pending disposal of the above CRL.RC.NO.1146 OF 2019 [IN CRL.MP.NO.15432 OF 2019]

[ii] dispense with surrender of the petitioner in pursuance to the Judgment of the Learned III Additional Sessions Judge, Vellore at Tirupattur, passed in Crl.A.No.6 of 2017 dated 14.03.2019 confirming the order of the Learned Judicial Magistrate No.I, Tirupattur passed in S.T.C.NO.1069 of 2014 dated 22/11/2016, pending disposal of the above CRL.RC.NO.1146 OF 2019 [IN CRL.MP.NO.15437 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.1146 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.S.V.KARTHIKEYAN, 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 14.03.2019 passed in C.A.No.6 of 2017, by the III Additional Sessions Judge, Vellore at Tirupattur, confirming the judgment, dated 22.11.2016, made in S.T.C.No.11069/2014, by the learned Judicial Magistrate No.I, Tirupattur and to exempt the Petitioner/Accused from surrendering before the Trial Court, in connection

with the conviction and sentence, imposed by the judgment, dated 14.03.2019 passed in C.A.No.6 of 2017, by the III Additional Sessions Judge, Vellore at Tirupattur, 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.7,00,000/-, the Petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo six months Simple Imprisonment and to pay a sum of Rs.7,00,000/- (Rupees seven Lakhs Only), as compensation to the Respondent/complainant within two months, in default to undergo one month of 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.7,00,000/-), namely, Rs.3,50,000/- (Rupees Three Lakhs and Fifty Thousand 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 her 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 learned Judicial Magistrate No.1, Tirupattur, Vellore District.

- 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 she is not able to appear before the Trial Court on any day, she 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 her 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 22.11.2019 for reporting compliance.

-sd/-

25/10/2019

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.

सत्यमेव जयते

TO

1 THE III ADDITIONAL SESSIONS JUDGE,
VELLORE AT TIRUPATTUR

2 THE JUDICIAL MAGISTRATE NO. I,
TIRUPATTUR.

3 THE CHIEF JUDICIAL MAGISTRATE,
VELLORE [FOR INFORMATION]

+1C.C. to M/S.S.V.KARTHIKEYAN Advocate on payment of necessary charges SR NO.22078

Order

in
CRL MP.15432 & 15437 OF 2019
in
CRL.RC.1146 OF 2019

Date :25/10/2019

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

MK:25/10/2019



WEB COPY