

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the First day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.15651,15652 & 15653 of 2019

IN CRL.RC.NO.1181 OF 2019

SUBRAMANIAN

[PETITIONER]

Vs

SAKTHIVEL

[RESPONDENT]

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

[I]stay the order of payment of compensation of Rs.12 lakhs to the respondent herein, pending disposal of Crl Rc No.1181 OF 2019. [CRL.MP.NO.15651/2019]

[II]suspend the sentence of imprisonment passed in C.A.NO.127/2018 dated 2.8.2019, by the learned II Additional District Sessions Judge, Chidambaram, reversing the judgement of acquittal passed in S..T.C.NO.6/2007 DATED 8.10.2017, on the file of Judicial Magistrate No.2,chidambaram and enlarge him on bail pending disposal of crl.Rc.No.1181/2019. [CRL.MP.NO.15652/2019]

[III]Exempt him from surrendering in S.T.C.NO.6/2007 on the file of learned Judicial Magistrate No.II,Chidambaram pending disposal of Crl.Rc.No.1181/2019. [CRL.MP.NO.15653/2019]

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S. K.V.SRIDHARAN, Advocate for the petitioner , 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 02.08.2019 made in C.A.No.127/2018, by the learned II Additional District and Sessions Judge, Chidambaram. The petitioner was acquitted by the learned Judicial Magistrate No.2, Chidambaram however on appeal the appellate Court has reversed the judgment of acquittal and convicted the petitioner by judgment, dated 02.08.2019 passed in C.A.No.127/2018, by the learned II Additional District and Sessions Judge, Chidambaram and also prays to exempt the Petitioner from surrendering before the Trial Court, in connection with the conviction and sentence, imposed in C.A.No.127/2018, by the II Additional District and Sessions Judge, Chidambaram by judgement, dated 02.08.2019, 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.By judgement of the Appellate Court the order of acquittal by the trial Court was reversed and 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.12,00,000/- as compensation to the respondent.

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. He would further submit that the trial Court had acquitted the petitioner and on appeal filed by the respondent the order of acquittal was reversed. However he would submit that without prejudice to his contention, the petitioner is ready and willing to deposit 10% of the cheque amount, namely Rs.1,20,000/- (Rupees One lakh Twenty Thousand only) before the trial Court. He would further submit that the cheque is in respect of the year 2005 and the petitioner is 64 years old with age related ailments and the trial Court finding that the cheque had been misused and acquitted the petitioner.

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.1,20,000/- (Rupees One Lakh Twenty 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 disbursal 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 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, Chidambaram.

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 Judicial Magistrate Court - I, Pudukottai once in two months at 10.30 a.m. starting from December 2019 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.

e) In view of the above order, the order of payment of compensation of Rs.12,00,000/- to the respondent is stayed.

6. Post the matter on 02.12.2019 for reporting compliance.

-sd/-

01/11/2019

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 II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, CHIDAMBARAM

2 THE JUDICIAL MAGISTRATE,
NO.2, CHIDAMBARAM

3 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION]

4 THE JUDICIAL MAGISTRATE,
COURT-I, PUDUKOTTAI

+2 C.C. To M/S. K.V.SRIDHARAN Advocate on payment of necessary charges SR.NO. 22516

WEB COPY

Order

in

CRL MP.15651,15652 & 15653/2019

IN CRL.RC.NO.1181 OF 2019

Date :01/11/2019

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RD 05/11/2019

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