

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twelfth day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.14253 of 2019

IN CRL RC.1037/2019

RAMESH BABU

[PETITIONER]

Vs

M/S.M.DEVARAJULUA
PARTNERSHIP ORGANISATION,
(NOW PROPRIETARY CONCERN),
NO.3, JAFFAR SYRANG STREET,
CHENNAI-600 001,
REP.BY ITS AUTHORISED PERSON,
RAVIKUMAR M.D,

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1037/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence of imposed on the petitioner by Judgment dated 06.08.2019 and made in C.A.No.387/2017 on the file of XVI Additional Sessions Judge, Chennai confirming the Judgement and conviction dated 08.11.2017 and made in CC.No.2140/2013 on the file of III Metropolitan Magistrate, George Town, Chennai-600 001 and enlarge the petitioner on bail, pending disposal of the above criminal Revision case.[CRL.MP.NO.14253/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.1037/2019 on the file of the High Court and upon hearing the arguments of MR.L.CHANDRAKUMAR Advocate for the petitioner ,the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed by the judgment dated, 06.08.2019, made in C.A.No.387 of 2017 by the XVI Additional Sessions Judge, Chennai, confirming the judgment and conviction dated 08.11.2017 made in C.C.No.2140 of 2013 on the file of III Metropolitan Magistrate, George Town, Chennai, pending disposal of the Criminal Revision Case.

2. This Court heard the learned counsel for the petitioner and also perused the materials placed on record.

<https://hcservices.ecourts.gov.in/hcservices/>

3. In and by the impugned judgement, the Petitioner/ accused was convicted and sentenced for the offence under Section 138 (1 count) of the Negotiable Instruments Act, 1881, to undergo one year simple imprisonment and to pay a fine of Rs.5,00,000/- as compensation, in default, to undergo two months simple Imprisonment.

4. The learned counsel for the Petitioner/accused would submit that though two cheques were involved in this case and the Trial Court had convicted the petitioner only in respect of one count in respect of holding one cheque for a sum of Rs.2,50,000/- of valid and the other cheque for a sum of Rs.2,50,000/- as stale and that 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 that 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 on condition of depositing some amount. He would submit that without prejudice to his contentions, the Petitioner is prepared to deposit 50% of the cheque amount which was held to be valid.

5. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, this Court is of the view, that the substantive sentence of imprisonment alone can be suspended on certain conditions:-

a).The Petitioner/accused shall deposit a sum of Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand Only) which is 50% of the cheque amount of Rs.2,50,000/- 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 his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each, of whom, one should be a blood relative, each for a like sum to the satisfaction of the III Metropolitan Magistrate Court, George Town, Chennai-600 001.

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.

Post the matter on 10.12.2019 for "reporting compliance".

-sd/-

12/11/2019

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 THE METROPOLITAN MAGISTRATE,
NO.III, GEORGE TOWN, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE [FOR INFORMATION]

3 THE XVI ADDITIONAL SESSIONS
JUDGE, CHENNAI

+1 C.C. to M/S.L.CHANDRAKUMAR Advocate on payment of necessary
charges SR.NO. 23225

Order

in
CRL MP.14253/2019

in
CRL RC.1037/2019

Date :12/11/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 14/11/2019