

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Fourth day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.14251 & 14252 of 2019

IN CRL.RC.NO.1036 OF 2019

S.KAMESWARAN

[PETITIONER]

Vs

P.JAYACHANDRAN

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1036/2019 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 19.09.2019 made in C.A.No.367/2018 on the file of the learned Second Additional District and Sessions Court, Erode confirming the judgment dated 03.11.2018 made in STC.NO.33 of 2016 on the file of the learned Judicial Magistrate, Fast Track Court No.2, Erode and enlarge the petitioner on bail pending disposal of the above criminal Revision Petition.[CRL.MP.NO.14251/2019]

[II]exemption from surrendering before the trial court pursuant to the judgment dated 19.09.2019 made in C.A.No.367/2018 on the file of the learned Second Additional District and Sessions Court, Erode confirming the judgment dated 03.11.2018 made in STC.NO.33 of 2016 on the file of the learned Judicial Magistrate, Fast Track Court No.2, Erode pending disposal of the above revision petition.[CRL.MP.NO.14252/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.1036/2019 on the file of the High Court and upon hearing the arguments of M/S.N.MANOCHARAN, Advocate for the petitioner and of MR. on behalf of the Respondent 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 19.09.2019 passed in C.A.No.367 of 2018, by the II Additional District and Sessions Court, Erode, confirming the judgement dated 03.11.2018 made in S.T.C.No.33/2016 by the learned Judicial Magistrate Fast Track II, Erode and to exempt the Petitioner/ Accused, from surrendering before the Trial Court, in connection with the conviction and sentence, imposed by the judgment, dated 19.09.2019 passed in C.A.No.367 of 2018, by the II Additional District and Sessions Court, Erode, respectively, on the grounds specified in 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.4,20,000/-, 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 fine of Rs.3,000/-, and in default to undergo three months 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. The learned counsel for the petitioner would submit that the petitioner has let in evidence by examining the doctor stating that he was affected by stroke and that he could not have signed on the particular day, however, he would submit without prejudice to his contentions, the petitioner is prepared to deposit 25% of the cheque amount in question before the trial court within a time frame to be specified by this 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 25% of the cheque amount (Rs.4,20,000/-), namely, Rs.1,05,000/- (Rupees One Lakh and five thousand only) before the Trial Court, within six 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 II, Erode.

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 15.11.2019 for reporting compliance.

-sd/-

04/10/2019

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 II ADDITIONAL DISTRICT AND
SESSIONS COURT, ERODE

2 THE JUDICIAL MAGISTRATE,
FAST TRACK -II, ERODE

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

+2 C.C. to M/S.N.MANOCHARAN Advocate on payment of necessary
charges SR.NO. 20754, 20755

WEB COPY

Order

in

CRL MP.14251 & 14252 /2019

IN CRL.RC.NO.1036 OF 2019

Date : 04/10/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 04/10/2019