

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Fifteenth day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION Nos.14599 & 14606 of 2019

IN CRL.RC.NO.1072/2019

PALANISAMY

[PETITIONER]

Vs

V.RADHAKRISHNAN

[RESPONDENT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.1072/2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence imposed on the Petitioner in S.T.C.No.540 of 2017 passed by the Judicial Magistrate I, Bhavani dated 04/03/2019 and as confirmed by the Judgment in Crl.A.No.4/2019 by the IV Additional District and Sessions Judge, Erode District at Bhavani dated 12.09.2019. [IN CRL.MP.14599/2019 IN CRL.RC.1072/2019]

[ii] exempt the surrender of the petitioner before the Lower Appellate Court in Crl.A.N.No.4 of 2019 by the IV Additional District and Sessions Judge, Erode District at Bhavani on the date of judgment i.e., on 12.09.2019. [IN CRL.MP.14606/2019 IN CRL.RC.1072/2019]

Order : These petitions coming on for orders upon perusing the petitions and the Memorandum of Grounds in Crl.RC.No.1072/2019 on the file of the High Court and upon hearing the arguments of MR.S.KAITHAMALAI KUMARAN, Advocate for the petitioner [IN BOTH THE PETITIONS] the court made the following order:-

These Criminal Miscellaneous Petition have been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed by the judgment, dated 04.03.2019 passed in STC.No.540 of 2017, by the Judicial Magistrate I, Bhavani as confirmed in the judgment, dated 12.09.2019, made in Crl.A.No.4 of 2019, by the IV Additional District and Sessions Judge, Erode District at Bhavani and to exempt the Petitioner/ Accused, from surrendering before the Trial Court, in connection with the conviction and sentence, imposed by the judgment, dated 04.03.2019, made in S.T.C.No.540 of 2017, by the Judicial Magistrate I, Bhavani, respectively, pending disposal of the Criminal Revision Case.

2. 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.10,00,000/-, the Petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo one month Simple Imprisonment and directed to pay the cheque amount of Rs.10,00,000/- as compensation to the Respondent/complainant, 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.

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 30% of the cheque amount (Rs.10,00,000/-), namely, Rs.3,00,000/- (Rupees Three Lakhs 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.
- b) 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 I, Bhavani.
- c) 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.
- d) 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.

e) 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 after four weeks for reporting compliance.

-sd/-
15/10/2019

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 IV ADDITIOAL DISTRICT AND
SESSIONS JUDGE,
ERODE DISTRICT AT BHAVANI.

2 THE JUDICIAL MAGISTRATE,
NO.I, BHAVANI.

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

+1 C.C. to S.KAITHAMALAI KUMARAN Advocate on payment of necessary charges SR.No.21093

सत्यमेव जयते
Order

in
CRL MP.Nos.14599 & 14606/2019

in
CRL.RC.1072/2019

Date :15/10/2019

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format
cs 18/10/2019