

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Seventeenth day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.14730 & 14736 of 2019

IN CRL.R.C.NO.1088 & 1089 of 2019

M.WELLESLEY

[PETITIONER IN BOTH THE PETITIONS]

Vs

U.BABU

[RESPONDENT IN BOTH THE PETITIONS]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspension of sentence modified by Learned I additional District and Sessions Judge, Vellore in C.A.Nos.28 & 75 of 2018 dismissing the appeal and order of payment of Rs.1,60,000- to the Respondent/complainant within 2 months failing which the petitioner/Accused had to undergo six month Simple Imprisonment consecutively apart from the sentence awarded by the Trial Court in C.C.No.187 of 2011 on the file of the Learned Judicial Magistrate, Gudiyattham, pending disposal of this petition Crl.R.C.No.1088 & 1089 of 2019. (Crl.M.P.No.14730 & 14736/2019)

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.B.K.GIRISH NEELAKANTAN, Advocate for the petitioner [IN BOTH THE PETITIONS] 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 in the judgment, dated 20.02.2018 passed in C.C.No.187/2011, by the Judicial Magistrate Court, Gudiyatham as modified by the common judgment, dated 10.07.2019, made in Crl.A.Nos.28 & 75/2018, by the learned I Additional District Judge, Vellore, pending disposal of the Criminal Revision Cases.
- 2.This court heard the learned counsel on either side and also perused the materials placed on record.
- 3.In both the cases, the petitioner/Accused is one and the same person. In and by the impugned judgement, (in both the cases),

for non-payment of the cheque amount in question, viz. Rs.1,60,000/-, the Petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo two years simple imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand Only), in default, to undergo two months simple imprisonment, imposed by the Trial Court and vide common judgment dated 10.07.2019, in CrI.A.No.28/2018 filed by the petitioner/accused by modifying the sentence and however, allowed the appeal preferable by the complainant in CrI.A.No.75/2018, had directed the petitioner/accused to pay a compensation of Rs.1,60,000/- with default sentence.

4. The learned counsel for the petitioner would submit that there are arguable points available in both these Criminal Revision Cases, 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 both these Criminal Revision Cases and hence, the substantive sentence of imprisonment imposed against the petitioner/accused may be suspended.

5. Considering the facts and circumstances of the cases 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. The suspension of sentence and bail are granted, in both cases on the following conditions :-

a) The Petitioner/Accused shall surrender before the Trial Court and deposit 50% of the cheque amount (Rs.1,60,000/-), namely, Rs.80,000/- (Rupees Eighty 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 his executing a common bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, (in both cases) of whom, one should be a blood relative, each for a like sum to the satisfaction of the Judicial Magistrate, Gudiyatham.

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

Post the matter on 14.11.2019, for reporting compliance.

-sd/-
17/10/2019

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 JUDICIAL MAGISTRATE COURT,
GUDIYATHAM.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

3 THE I ADDITIONAL DISTRICT & SESSION JUDGE,
VELLORE,

C.C. to M/S.B.K.GIRISH NEELAKANTAN Advocate on payment of
necessary charges

Order

in
CRL MP.14730 & 14736/2019

in
Crl.RC.Nos.1088 & 1089 of 2019

Date :17/10/2019

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

TA-18/10/2019

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