

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Seventh day of November Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA
CRIMINAL MISCELLANEOUS PETITION No.16092 of 2019
IN CRL.RC.NO.1209 OF 2019

M.JAMEESHA

[PETITIONER]

vs

K.SHANMUGAM

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1209/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment imposed in the judgement dated 08/10/2019 made in C.A. No 191/2018 on the file of II nd Additional District and Sessions Judge, Erode confirming the conviction imposed the judgment dated 21.05.2018 made in S.T.C No.129 of 2017 on the file of the Judicial Magistrate Fast Track NO.1, Erode and enlarge the petitioner on bail pending disposal of the above revision petition.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.1209/2019 on the file of the High Court and upon hearing the arguments of M/S. J.JAWAHAR Advocate for the petitioner the court made the following order:-

- 1.This Criminal Miscellaneous Petition has been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed by the judgment, dated 08.10.2019, passed in C.A.No.191/2018, by the learned IInd Additional District and Sessions Judge, Erode, by confirming the judgment, dated 21.05.2018, made in S.T.C.No.129/2017, by the learned Judicial Magistrate, Fast Track Court No.I, Erode, 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.
3. In and by both the impugned judgements, for non-payment of the cheque amount in question, viz. Rs.4,50,000/-, the petitioner/accused was convicted and sentenced for the offence

under Section 138 of the Negotiable Instruments Act, to undergo Six Months Simple Imprisonment and to pay a compensation of Rs.4,50,000/- (Rupees Four Lakhs Fifty Thousand Only), in default, to undergo One Month Simple Imprisonment.

4. According to the learned counsel for the petitioner the petitioner was arrested on 26.08.2019 and he is in judicial custody for more than 53 days. On behalf of the petitioner settlement has also been made with the respondent/complainant and that 10% of the cheque amount i.e., Rs.45,000/- (Rupees Forty Five Thousand Only) has been paid towards full and final settlement to the respondent and the respondent also acknowledged the same. He further submitted 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 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.
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 suspension of sentence and bail are granted, on the following conditions :-
 - a) The Petitioner/Accused is ordered to be released on bail, on his executing a bond for a sum of Rs.5,000/- (Rupees Five thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate, Fast Track Court No.1, 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.

6. Post the matter in the usual course.

-sd/-

07/11/2019

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 II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, ERODE

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT NO.1, ERODE

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

4 THE SUPERINTENDENT
CENTRAL PRISON, COIMBATORE

+1 C.C. to M/S. J. JAWAHAR Advocate on payment of necessary
charges SR.NO. 22873

Order

in

CRL MP.16092/2019

IN CRL.RC.NO.1209 OF 2019

Date : 07/11/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 07/11/2019