

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Wednesday, the Twenty Third day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION Nos.15149 & 15152 of 2019

IN CRL.RC.NO.1123/2019

K.ANBUSELVAM

[ PETITIONER ]

Vs

K.MURUGAN

[ RESPONDENT ]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.1123/2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence of one year Simple Imprisonment and fine of Rs.6,00,000/- imposed in judgment dated 19.03.2019, passed in C.C.No.11/2018 by the learned Judicial Magistrate, FTC, Kallakurichi and confirmed the same in judgment dated 24.09.2019 passed in C.A.No.29/2019 by the learned III-Additional Sessions Judge, Villupuram, at Kallakurichi, till disposal of the main Crl.RC.No.1123/2019. [IN CRL.MP.15149/2019]

[ii] exempt the petitioner to surrender before the Trial Court to present this Criminal Revision case against the judgment dated 19.03.2019, passed in C.C.No.11/2018 by the learned Judicial Magistrate, FTC, Kallakurichi and confirmed the same by a judgment dated 24.09.2019 passed in C.A.No.29/2019 by the learned III-Additional Sessions Judge, Villupuram, at Kallakurichi, till disposal of the main Crl.RC.No.1123/2019. [IN CRL.MP.15152/2019]

Order : These petitions coming on for orders upon perusing the petitions and the Memorandum of Grounds in Crl.RC.No.1123/2019 on the file of the High Court and upon hearing the arguments of M/S. S.RAMAJAYAM, Advocate for the petitioner and of 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 19.03.2019 passed in C.C.No.11/2018, by the Judicial Magistrate, FTC, Kallakurichi, as confirmed in the judgment, dated 24.09.2019, made in Crl.A.No.29/2019, by the III Additional Sessions Judge, Kallakurichi and to exempt the Petitioner/Accused, from surrendering before the Trial Court, in connection with the conviction and sentence, imposed by the judgment, dated 24.09.2019, made in Crl.A.No.29/2019, by the III Additional Sessions Judge, Kallakurichi, respectively, pending disposal of 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.6,00,000/-, the Petitioner/accused was convicted and sentenced for the offence under Section 138 r/w 142 of the Negotiable Instruments Act, to undergo one year Simple Imprisonment and to pay a fine of Rs.6,00,000/- (Rupees Six Lakh Only), as compensation to the Respondent/complainant, in default, to undergo three weeks Simple Imprisonment.
- 4.The learned counsel for the petitioner would submit that at the time of filing the appeal the petitioner has deposited a sum of Rs.1,20,000/- before the trial Court, during the pendency of the appeal and he would submit that he is prepared to pay an further amount of Rs.1,80,000/- , which would make out to 50 % of the cheque amount in total before the trial Court. 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 Rs.1,80,000/- (Rupees One Lakh and Eight 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 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 III Additional Sessions Judge, Kallakurichi.
- 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 20.11.2019 for reporting compliance.

-sd/-

23/10/2019

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,  
FAST TRACK COURT, KALLAKURICHI.

2 THE CHIEF JUDICIAL MAGISTRATE  
VILLUPURAM [FOR INFORMATION]

3 III ADDITIONAL SESSIONS JUDGE  
VILLUPURAM AT KALLAKURICHI.

+1 C.C. to M/S. S.RAMAJAYAM Advocate on payment of necessary charges SR.No.21860

Order

in  
CRL MP.Nos.15149 & 15152/2019

in  
CRL.RC.1123/2019  
Date :23/10/2019

From 7.2.2001 the Registry is issuing certified  
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cs 25/10/2019