

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Thirty First day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.15413, 15620 & 15623 of 2019

IN CRL.RC.NO.865 OF 2019

M.VIRUPAKSHA

[PETITIONER]

Vs

P.K.DASAPRAKASH

[RESPONDENT]

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

[i] modify the conditions imposed in Para No.5(a) to (c) of the order dated 09.09.2019 made in Crl.M.P.No.12719 of 2019 in Crl.R.C.No.865 of 2019 on the file of this Hon'ble Court, by accepting the payment of Rs.13 lakhs paid to the respondent on 11.10.2019 and 19.10.2019 towards part payment of the settlement as due compliance. [IN CRL.MP.15413/2019]

[ii] amend the name of the jurisdiction magistrate court as Judicial Magistrate No.I, Gobichettipalayam instead of the Judicial Magistrate, (Fast Track Court), Magistrate Level II, Poonamallee in Para No.5(b) of the order dated 09.09.2019 made in Crl.MP.No.12719 of 2019 in Crl.RC.No.865 of 2019 on the file of this Hon'ble Court. [IN CRL.MP.15620/2019]

[iii] condone the delay in surrendering before trial Court by extended the time for submitting the sureties as per the condition imposed in Para No.5(b) of the order dated 09.09.2019 made in Crl.M.P.No.12719 of 2019 in Crl.R.C.No.865 of 2019 on the file of this Hon'ble Court. [IN CRL.MP.15623/2019]

Order : These petitions coming on for orders upon perusing the petitions and the filed in support thereof and upon hearing the arguments of M/S.N.MANOKARAN, Advocate for the petitioner [IN ALL THE PETITIONS] and of MR.N.PONRAJ, ADVOCATE on behalf of the Respondent [IN ALL THE PETITIONS] the court made the following order:-

The learned counsel for the petitioner would submit that this Court has passed a conditional order on 09.09.2019 directing the petitioner to deposit a sum of Rs.10,00,000/- by way of two instalments before the trial Court, since a mistake had been crept in the order citing the jurisdictional Court as Judicial Magistrate I, (Fast Track Court), Magistrate level II, Poonamallee instead of Judicial Magistrate I, Gobichettipalayam and thereby the petitioner was unable to comply with the order. He further submitted that

meanwhile the respondent/complainant had offered to settle the matter and believing his words the petitioner pending the revision had paid a sum of Rs.13,00,000/- directly to the respondent/complainant which is also been acknowledged by him. Now the respondent/complainant has rescinded from his agreement to go for a settlement and thereby the petitioner has filed the present petition seeking for modification of condition and condone the delay in surrendering.

2. Mr.Ponraj, learned counsel for the respondent submitted that the respondent is present before this Court and that he has also asked for change of vakalat. This Court enquired the respondent/complainant who is present before this Court and he had agreed that subsequent to the order passed by this Court he has received an amount of Rs.13,00,000/- from the petitioner/accused and also duly acknowledged the same.

3. This Court by order dated 09.09.2019 directed the petitioner to deposit a sum of Rs.10,00,000/- by way of two instalments before the trial Court. First instalment of Rs.5,00,000/- was directed to be deposited on or before 07.10.2019 and the second instalment of Rs.5,00,000/- was directed to be deposited within four weeks from the date of first instalment made. Since a mistake had crept in the order regarding the jurisdictional Magistrate Court i.e., Judicial Magistrate (Fast Track Court), Magistrate Level II, Poonamallee instead of Judicial Magistrate No.1, Gobichettipalayam, a petition has been filed in CrI.M.P.No.15620 of 2019 to amend the name as Judicial Magistrate No.1, Gobichettipalayam and the same is ordered.

4. Meanwhile some compromise have been arrived between the parties, pursuant to which the petitioner has paid Rs.13,00,000/- to the respondent and thereby petition in CrI.M.P.No.15413 of 2019 has been filed seeking to modify the condition imposed in Paragraph No.5(a) to (c) of the order dated 09.09.2019 made in CrI.M.P.No.12719 of 2019. The respondent has filed affidavit stating that subsequent to the order dated 09.09.2019 the petitioner has paid a sum of Rs.10,00,000/- on 11.10.2019 and further sum of Rs.3,00,000/- on 19.10.2019 and the respondent has also issued necessary receipts. Since the amount of Rs.13,00,000/- has been directly paid to the respondent condition imposed in Para No.5(a) to (c) are modified.

5. In view of the payment of Rs.13,00,000/- made by the petitioner directly to the respondent/complainant the delay in surrendering before the trial Court is condoned and conditions imposed in Paragraph No.5(a) to (c) of the order dated 09.09.2019 made in CrI.M.P.No.12719 of 2019 is modified.

- a) The petitioner is directed to surrender before the Court within two weeks from the date of receipt of a copy of the order and on such surrender the petitioner is ordered to be released on bail, on 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 No.1, Gobichettipalayam.

- 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 Criminal Revision Petition in the usual course.

-sd/-

31/10/2019

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,
NO.1, GOBICHETTIPALAYAM

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

3 THE III ADDITIONAL DISTRICT
AND SESSIONS COURT, ERODE.

4 THE JUDICIAL MAGISTRATE,
(FAST TRACK COURT), MAGISTERIAL LEVEL-II,
POONAMALLEE.

5 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

+3 C.C. to M/S.N.MANOKARAN, Advocate on payment of necessary
charges SR.Nos.22426, 22425 & 22427

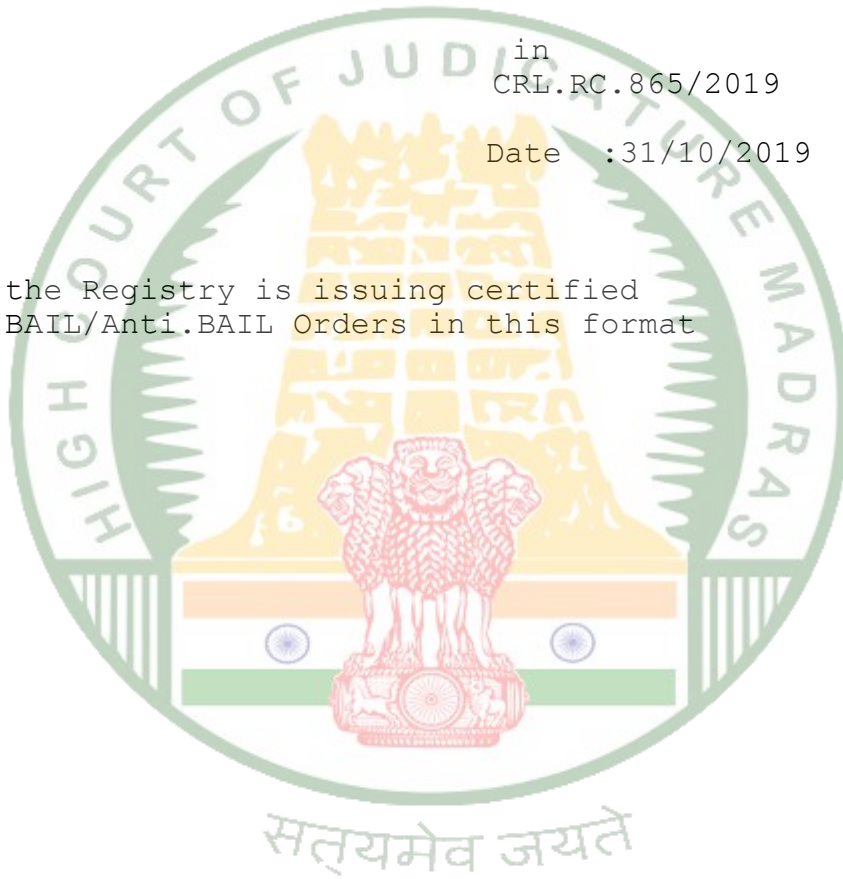
Order

in
CRL MP.Nos.15413, 15620
& 15623/2019

in
CRL.RC.865/2019

Date :31/10/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
cs 06/11/2019



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