

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 NOS.15550 & 15551 OF 2019

IN CRL.RC.NO.1160 OF 2019

K.SIVAKUMAR

[PETITIONER / APPELLANT / ACCUSED]

Vs

RAMAMOORTHY

[RESPONDENT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.1160 OF 2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence imposed on him in C.A.No.267 of 2018 on the file of the IV Additional District and Sessions Judge, Coimbatore, dated 18.09.2019 confirming the Judgment passed in C.C.No.490 of 2015 by the District Munsif cum Judicial Magistrate, Mettupalayam, dated 29/05/2018 pending CRL.RC.NO.1160 OF 2019 [IN CRL.MP.NO.15550 OF 2019]

[ii] exempt the petitioner from surrendering in C.A.No.267 of 2018 on the file of the IV Additional District and Sessions Judge, Coimbatore, dated 18.09.2019 confirming the Judgment passed in C.C.No.490 of 2015 by the District Munsif cum Judicial Magistrate, Mettupalayam, dated 29/05/2018 pending CRL.RC.NO.1160 OF 2019 [IN CRL.MP.NO.15551 OF 2019]

Order : These petitions coming on for orders upon perusing the petition and Memorandum of Grounds in CRL.RC.NO.1160 OF 2019 On the file of the High Court and upon hearing the arguments of M/S. S.GUNALAN, Advocate for the petitioner, the court made the following order:-

1. These Criminal Miscellaneous Petitions have been filed by the Petitioner/Accused to suspend the sentence of imprisonment, imposed by the judgment, dated 18.09.2019 made in Crl.A.No.267/2018, by the IV Additional District and Sessions Judge, Coimbatore, confirming in the judgment, dated 29.05.2018 passed in C.C.No.490/2015, by the District Munsif Cum Judicial Magistrate, Mettupalayam and to exempt the Petitioner from surrendering before the Trial Court, in Crl.A.No.267/2018, by the IV Additional District and Sessions Judge, Coimbatore, by judgement, dated 18.09.2019, 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 of the Trial Court and the Appellate Court, the petitioner/accused was convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo Two Years Simple Imprisonment and to pay an amount of Rs.10,00,000/- [Rupees Ten Lakhs Only] as compensation within two months.
- 4.The learned counsel for the Petitioner/accused would submit that there are arguable points available in the Criminal Revision Case and that the revision petition is not likely to be taken for final hearing in the near future and that the Petitioner has got a fair chance of succeeding in the Criminal Revision Case and would pray that the substantive sentence imposed against the Petitioner/Accused may be suspended on condition of depositing some amount. He would submit that without prejudice his contentions, the petitioner is prepared to deposit 50% of the cheque amount within a specific time.
- 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 Court, suspension of sentence and bail are granted on the following conditions :-
- a) The Petitioner/Accused shall deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) before the Trial Court, within a period of 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 in any nationalized bank, so that the amount accrues interest. The disbursal of this amount shall be decided at the culmination of the revision petition. 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 District Munsif Cum Judicial Magistrate, Mettupalayam.
- 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 28.11.2019 for reporting compliance.

-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 IV ADDITIONAL DISTRICT AND SESSIONS JUDGE,
COIMBATORE.

2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
METTUPALAYAM.

3 THE CHIEF JUDICIAL MAGISTRATE,
COIMBATORE [FOR INFORMATION]

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+1C.C. to M/S. S.GUNALAN Advocate on payment of necessary charges SR NO.22388

Order

in
CRL MP.15550 & 15551 OF 2019
in
CRL.RC.1160/2019

Date :31/10/2019

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

MK:01/11/2019



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