

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Fourth day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION Nos.15726 & 15725 of 2019

IN CRL.RC.NO.1185 OF 2019

RAJASHEKAR REDDY [PETITIONERS]
MANAGING DIRECTOR,
M/S.INDIRA GLOBB IN TRADERS

Vs

B.RAJA MOHAN [RESPONDENT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.1185/2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence of six months simple imprisonment and direction to the petitioner to pay a sum of Rs.2,25,000/- as compensation to the respondent imposed by the learned VII Metropolitan Magistrate, G.T, Chennai in CC.NO.6706 of 2008 by Judgment dated 14.02.2013 confirmed by the Learned XVI Additional Sessions Judge at Chennai by Judgment dated 25.03.2019 in C.A.No.55 of 2013, pending disposal of the above Crl.RC.No.1185/2019. [IN CRL.MP.15726/2019]

[ii] exemption to the petitioner from the Surrender by virtue of the Judgment dated 25.03.2019 made in C.A.No.55 of 2013 against C.C.No.6706 of 2008 learned VII Metropolitan Magistrate, G.T, Chennai by confirming the conviction and sentence imposed by the Learned VII Metropolitan Magistrate, G.T, Chennai in C.C.No.6706 of 2008 dated 14.02.2013, pending disposal of the above Crl.RC.No.1185/2019. [IN CRL.MP.15725/2019]

Order : These petitions coming on for orders upon perusing the petitions and the Memorandum of Grounds in Crl.RC.No.1185/2019 on the file of the High Court and upon hearing the arguments of M/S.B.KUMARASAMY, Advocate for the petitioner the court made the following order:-

- 1.These Criminal Miscellaneous Petitions have been filed by the Petitioner/A2 to suspend the sentence of imprisonment, imposed by the judgment, dated 14.02.2013 made in C.C.No.6706/2008, by the VII Metropolitan Magistrate, George Town, Chennai, as confirmed by the judgment, dated 25.03.2019, made in Crl.A.No.55/2013, by the XIX Additional Sessions Court, Chennai and to exempt the Petitioners from surrendering before the Trial Court, in C.C.No.6706/2008, by

the VII Metropolitan Magistrate, George Town, Chennai, by the judgement, dated 14.02.2013, respectively, pending disposal of these Criminal Revision Cases.

2. This court heard the submissions made by the learned counsel for the Petitioners and also perused the impugned Judgment.
3. In and by both the impugned judgements of the Trial Court and the Appellate Court, the Petitioner/A2 was convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo Six Months Simple Imprisonment and to pay an amount of Rs.2,25,000/- [Rupees Two Lakhs Twenty Five Thousand Only] as compensation within a period of one month and the sentence is ordered to run concurrently.
4. According to the learned counsel for the Petitioners/Accused, the 1st petitioner is a company and the 2nd petitioner is the Managing Director of the company and 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 Petitioners has got a fair chance of succeeding in the Criminal Revision Case and would pray that the substantive sentence imposed against the Petitioner/A2 may be suspended on condition of depositing some amount. He would submit that without prejudice to his contentions, the Petitioners is prepared to deposit 50% of the cheque amount and would seek six weeks time for making payment.
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/A2 shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh Only) 50% of the cheque amount, before the Trial Court, within a period of six 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 revision petition. Thereafter, the Petitioner/A2 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 each, of whom, one should be a blood relative, each for a like sum to the satisfaction of the VII Metropolitan Magistrate, George Town, Chennai.
 - b) The Petitioner/A2 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/A2 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/A2, depositing the said amount, it is open to the Trial Court to commit the Petitioner/A2 into custody for undergoing the sentence.

Post the matter on 16.12.2019 for "reporting compliance".

-sd/-

04/11/2019

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 METROPOLITAN MAGISTRATE
NO.VII, GEORGE TOWN, CHENNAI

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE XIXTH ADDITIONAL SESSIONS COURT,
CHENNAI.

+1 C.C. to M/S.B.KUMARASAMY Advocate on payment of necessary charges SR.No.22570

Order

in
CRL MP.Nos.15726 & 15725/2019
in
CRL.RC.No.1185/2019

Date :04/11/2019

From 7.2.2001 the Registry is issuing certified
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cs 05/11/2019