

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Fifth day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.15878 of 2019

IN CRL.R.C.No.1193 OF 2019

M.MADESH
PROPRIETOR OF MAHALAKSHMI TRADERS

[PETITIONER]

Vs

M.KRISHNAPPA

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1193 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the Petitioner/Accused by learned Additional Sessions Judge, Krishnagiri in Crl.A.No.71/2015 order dated 09.07.2019 and STC.No.114/2015 on the file of Judicial Magistrate, Fast Track Court at Hosur dated 30.11.2015.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.1193/2019 on the file of the High Court and upon hearing the arguments of M/S.G.BABU, Advocate for the petitioner the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed by the learned Additional Sessions Judge, Krishnagiri in Criminal Appeal No.71 of 2015, order dated 09.07.2019 and confirming the impugned judgment in STC.No.114 of 2015 on the file of the learned Judicial Magistrate, Fast Track Court, Hosur, dated 30.11.2015.

2 This court heard the learned counsel appearing for the petitioner.

3 In and by both the impugned judgments of the Trial Court and the Lower Appellate Court, for non-payment of the cheque amount in question, viz. Rs.2,48,500/-, 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.2,48,000/- (Rupees Two Lakhs Fourty Eight Thousand Only), to the respondent/accused.

4 The learned counsel for the petitioner would submit that there are arguable points available in this 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 the Criminal Revision Case and hence, the substantive sentence of imprisonment imposed against the petitioner/accused may be suspended. He would further submit that without prejudice to his contentions, the petitioner is prepared to deposit 50% of the cheque amount within a time to be fixed by this Court.

5 Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, the suspension of sentence and bail are granted, on the following conditions :-

- a) The Petitioner/Accused shall surrender before the Trial Court and deposit 50% of the cheque amount (Rs.2,48,500/-), namely, Rs.1,24,250/- (Rupees One Lakh Twenty Four Thousand Two Hundred and Fifty 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 common bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, (in both cases) of whom, one should be a blood relative, each for a like sum to the satisfaction of the Judicial Magistrate, Fast Track Court, Hosur.
- 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 03.12.2019, for reporting compliance.

-sd/-

05/11/2019

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 JUDICIAL MAGISTRATE,
FAST TRACK COURT, HOSUR

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI (FOR INFORMATION)

3 THE ADDITIONAL SESSIONS
JUDGE, KRISHNAGIRI

+2 C.C. to M/S.DR.G.BABU Advocate on payment of necessary
charges SR.NO. 22725

Order

in

CRL MP.15878/2019

IN CRL.R.C.No.1193 OF 2019

Date :05/11/2019

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

RVR 05/11/2019

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