

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Sixth day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION Nos.15932 & 15933 of 2019

IN CRL.RC.NO.1197 OF 2019

R.HARIHARAN

[PETITIONER]

PROPRIETOR OF HARIRAM TEXTILES

Vs

C.A.YUVARAJ

[RESPONDENT]

PROPRIETOR OF RAJA FABS

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1197 OF 2019 on the file of the High Court, the High Court will be pleased to

(i)suspend the sentence of imprisonment imposed in the judgment dated 24.09.2019 made in C.A.No.262 of 2017 on the file of I Additional District and Sessions Judge, Erode confirming the conviction imposed the judgment dated 11.09.2017 made in S.T.C.No.140 of 2016 on the file of the Judicial Magistrate Fast Track No.I, Erode and enlarge the petitioner on bail pending disposal of the above Crl.RC.NO.1197 of 2019.(in Crl.MP.No.15932 of 2019)

(ii) grant an order of exemption from surrendering before the trial court in pursuance to the judgment dated 24.09.2019 made in C.A.No.262 of 2017 on the file of I Additional District and Sessions Judge, Erode confirming the conviction imposed the judgment dated 11/09/2017 made in S.T.C.No.140 of 2016 on the file of the Judicial Magistrate Fast Track No.I, Erode pending disposal of the above Crl.RC.NO.1197 of 2019.(in Crl.MP.No.15933 of 2019)

Order : These petitions coming on for orders upon perusing the petitions and the Memorandum of Grounds in Crl.Revision Case No.1197 OF 2019 on the file of the High Court and upon hearing the arguments of MR.J.RANJITH KUMAR 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 conviction and sentence of imprisonment, imposed by the judgment, dated 24.09.2019 made in C.A.No.262/2017, by the I Additional District Judge, Erode, confirming the judgment dated 11.09.2017, made in S.T.C.No.140/2016, by the Judicial Magistrate, Fast Track Court No.I, Erode and to exempt the Petitioner from surrendering before

the Trial Court, in C.A.No.262/2017, by the I Additional District Judge, Erode, by the judgement, dated 24.09.2019, respectively, pending disposal of these Criminal Revision Cases.

2.This court heard the submissions made by the learned counsel for the Petitioner and also perused the impugned Judgment passed by the learned Trial Judge.

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 Six Months Simple Imprisonment and to pay an amount of Rs.4,45,300/- [Rupees Four Lakhs Forty Five Thousand Three Hundred Only] as compensation in default to undergo One Month Simple Imprisonment.

The learned counsel for the Petitioners/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 to his contentions, the Petitioner is prepared to deposit 50% of the cheque amount.

4.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 50% of the cheque amount for a sum of Rs.2,22,650/- (Rupees Two Lakhs Twenty Two Thousand Six Hundred and Fifty 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 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/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 each, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate, Fast Track Court No.I, Erode.

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.

5. Post the matter on 04.12.2019 for "reporting compliance".

-sd/-

06/11/2019

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 NO.I, ERODE.

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE (FOR INFORMATION)

3 I ST ADDITIONAL
DISTRICT SESSIONS COURT, ERODE.

4 IST ADDITIONAL DISTRICT JUDGE, ERODE.

C.C. to D.KANNAN Advocate on payment of necessary charges
SR.NO.22874

Order

in

CRL.MP.Nos.15932 & 15933 of 2019

IN CRL.RC.NO.1197 OF 2019

Date : 06/11/2019

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

RVR 12/11/2019

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