

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirteenth day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.16459 of 2019

IN CRL.RC.NO.1233 OF 2019

1 B.SIVAKUMAR [PETITIONER]
2 M/S.PENTA CUT TOOLS
3 V.JEYANTHI
PARTNER, M/S.PENTA CUT TOOLS,

Vs

B.VIVEKANANDAN [RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1233/2019 on the file of the High Court, the High Court will be pleased to suspension of the sentence of the order of conviction dated 07.08.2019 passed in C.A.No.310 of 2018 by the XVI Addl. Sessions Court at chennai by confirming the order dated 08.05.2018 passed in C.C.No.3235 of 2012 by the learned Metropolitan Magistrate fast Track Court-I, Egmore at Allikulam Chennai-3, pending disposal of the above main criminal revision petition. [CRL.MP.NO.16459/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.1233/2019 on the file of the High Court and upon hearing the arguments of M/S.A.BALASINGH RAMANUJAM, Advocate for the petitioner the court made the following order:-

- 1.This Criminal Miscellaneous Petition has been filed by the Petitioners/A1, A3 & A4, seeking suspension of sentence of imprisonment, imposed by the judgment, dated 07.08.2019 passed in C.A.No.310 of 2018, by the learned XVI Additional Sessions Court, Chennai, as confirmed in the judgment, dated 08.05.2018, made in C.C.No.3235 of 2012, by the Metropolitan Magistrate, Fast Tract Court No. I, Egmore at Allikulam, Chennai - 3, 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, for non-payment of the cheque amount in question, viz. Rs.3,50,000/-, the Petitioners/A1, A3 & A4 were convicted and sentenced for the offence under Section

138 of the Negotiable Instruments Act and A1 and A3 were sentenced to undergo six months Simple Imprisonment and A1, A3 and A4 jointly pay a sum of Rs.2,15,000/- (Rupees Two Lakhs Fifteen Thousand Only), as compensation to the Respondent/complainant, in default, to undergo two months Simple Imprisonment.

4. According to the learned counsel for the Petitioners/A1, A3 & A4, there are arguable points available in the 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 in the Criminal Revision Case and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended and the Petitioner may be exempted from surrendering before the Trial Court.

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 Trial Court, suspension of sentence and bail are granted, on the following conditions :-

a) The Petitioners/A1, A3 & A4 shall deposit 50% of the cheque amount (Rs.3,50,000/-), namely, Rs.1,75,000/- (Rupees One Lakh Seventy Five Thousand 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.

b) Thereafter, each of the Petitioners/A1, A3 & A4 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 Fast Track Court No.I, Egmore at Allikulam Chennai-3.

c) The Petitioners/A1, A3 & A4 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.

d) The Petitioners/A1, A3 & A4 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

e) On the failure of the Petitioners/A1, A3 & A4, depositing the said amount, it is open to the Trial Court to commit the Petitioners/A1, A3 & A4 into custody for undergoing the sentence.

-sd/-
13/11/2019

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 XVI ADDITIONAL SESSIONS
COURT, CHENNAI

2 THE METROPOLITAN MAGISTRATE,
FAST TRACK COURT NO.1, EGMORE AT ALLIKULAM,
CHENNA-3,

3 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE [FOR INFORMATION]

+1 C.C. to M/S.A.BALASINGH RAMANUJAM Advocate on payment of
necessary charges SR.NO. 23325 सत्यमेव जयते

Order

in
CRL MP.16459/2019
WEB COPY

IN CRL.RC.NO.1233 OF 2019

Date :13/11/2019

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copies of the BAIL/Anti.BAIL Orders in this format
RD 13/11/2019