

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Fifteenth day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.16510 of 2019

IN CRL.RC.NO.1237 OF 2019

V.GIRIJA

[PETITIONER]

Vs

M.SASIKUMAR

[RESPONDENT]

Petition praying that in the circumstances stated therein the High Court will be pleased to suspend the sentence imposed on the petitioner/accused by confirming the order passed in STC No.94 of 2017 dated 03.01.2019 by the Judicial Magistrate, Fast Track court No.II, Erode which was confirmed in Crl.A.No.30 of 2019 dated 25.09.2019 by the Principal Sessions Judge, Erode pending disposal of the above criminal Revision petition.[CRL.MP.NO.16510/2019]

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.T.SUNDARAVADANAM, Advocate for the petitioner , the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the Petitioner/Accused, seeking to suspend the sentence imposed by learned Judicial Magistrate, Fast Track Court No.II, Erode in STC.No.94 of 2017 dated 03.01.2019, which was confirmed by the Principal Sessions Judge, Erode in Crl.A.No.30 of 2019 by judgment dated 25.09.2019, pending disposal of the criminal revision petition.

2. 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.19,66,655/-, the Petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, 1881, to undergo one year simple imprisonment and to pay a sum of Rs.5,000/-, in default to undergo three months simple imprisonment.

4. The learned counsel for the petitioner would submit that the petitioner has not done any business, there was business transaction between the husband of the petitioner / accused and the respondent / complainant and that the cheque has been issued as security. Apart from the cheque, the document of the immovable property belonging to

the petitioner was also handed over to the respondent / complainant and that the respondent / complainant had handed over the document to a third person Jothimani and issued a notice for specific performance and the petitioner had sent a reply to Jothimani stating about the circumstances under which the cheque had been handed over to the complainant.

5. The Courts below failed to take into consideration the evidence let in on the side of the petitioner. Further, the petitioner, at the time of appeal had marked certain documents by way of additional evidence to disprove liability which has not been considered by the Appellate Court.

6. The learned counsel further would submit that without prejudice to the contentions, the petitioner is prepared to deposit some amount before the trial Court.

7. In view of the same, the suspension of sentence is granted and the revision petitioner / accused is directed to be released on bail subject to the following condition:

a) The Petitioner/Accused shall deposit a sum of Rs.4,91,664/- (Rupees Four Lakhs Ninety One Thousand Six hundred and Sixty Four Only), which is 25% of the cheque amount, 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. II, 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 she is not able to appear before the Trial Court on any day, she 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 her 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 the custody for undergoing the

sentence.

Post the matter on 12.12.2019 for "reporting compliance".

-sd/-

15/11/2019

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.II, ERODE

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE[FOR INFORMATION]

3 THE PRINCIPAL SESSIONS JUDGE
ERODE

+1 C.C. to M/S.T.SUNDARAVADANAM Advocate on payment of
necessary charges SR.NO. 23635

Order

in

CRL MP.16510/2019

IN CRL.RC.NO.1237 OF 2019

Date :15/11/2019

From 7.2.2001 the Registry is issuing certified
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RD 25/11/2019