

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Seventh day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.17576 of 2019

IN CRL.RC.NO.1295 OF 2019

K.GOVINDARAJ

[PETITIONER]

Vs

GANDHEESWARAN

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1295/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence passed in S.T.C.285/2016, on the file of the Judicial Magistrate Fast Track Court No.1, Erode as confirmed in C.A.No.319/2017, on the file of the II Additional District and Sessions, Erode District at Erode sessions pending disposal of the above revision.[CRL.MP.NO.17576/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.1295/2019 on the file of the High Court and upon hearing the arguments of M/S.G.MURUGENDRAN Advocate for the petitioner , the court made the following order:-

- 1.This Criminal Miscellaneous Petition has been filed by the Petitioner/Accused, to suspend the sentence of imprisonment, imposed by the judgement, dated 27.09.2019 made in Crl.A.No.319/2017, by the II Additional District and Sessions Judge, Erode, confirming the Judgement and Order dated 07.11.2017 passed in S.T.C.No. 285/2016, on the file of the learned Judicial Magistrate, Fast Track Court No.1, Erode, pending disposal of the Criminal Revision Case.
2. This court heard the submissions made by the learned counsel for the Petitioner and also perused both the impugned Judgement.
3. In and by both the impugned judgement of the Trial Court, the Petitioner/Accused, was convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced the appellant/accused to undergo simple imprisonment for a period of 8 months and awarded a compensation of Rs.8,16,000/- in default to undergo one month simple imprisonment.
4. The learned counsel for the Petitioner/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/Accused is prepared to deposit 50% of the cheque amount.

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:-

- a) The Petitioner/Accused shall deposit a sum of Rs.4,08,000/- (Rupees Four Lakhs Eight Thousand Only), which is 50% 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.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.

6.Post the matter in the first week of January, 2020 for "reporting compliance".

-sd/-

27/11/2019

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 II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, ERODE

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT NO.I, ERODE

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

C.C. to M/S.G.MURUGENDRAN Advocate on payment of necessary
charges SR.NO.

Order

in

CRL MP.17576/2019

IN CRL.RC.NO.1295 OF 2019

Date :27/11/2019

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RD 04/12/2019