

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.16723 of 2019

IN CRL.R.C.NO.434 of 2019

G.KALAIYARASI

[PETITIONER]

Vs

S.SENTHILKUMAR

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence imposed on the petitioner by the judgment dated 28.03.2019 passed in C.A.No.4/2019 on the file of the First Additional District Sessions Court, Erode confirming the judgment dated 10.12.2018 passed in STC No.135/2018 on the file of the Judicial Magistrate Court (Fast Track Court No.I) Erode, Pending disposal of the above Crl.R.C.No.434 of 2019.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.I.C.VASUDEVAN, Advocate for the petitioner, and of M/S.S.P.VIJAYARAGHAVAN, on behalf of the Respondent, 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 judgment, dated 28.03.2019 made in Crl.A.No.4/2019, by the I Additional District and Sessions Court, Erode, confirming the judgment dated 10.12.2018, made in STC.No.135/2018, by the Judicial Magistrate Court, (Fast Track Court No.II), Erode, pending disposal of the Criminal Revision Case.
- 2.This court heard the submissions made by the learned counsel on both sides and also perused both the impugned Judgments.
- 3.In and by both the impugned judgements of the Trial Court as well as the Appellate Court, the Petitioner/Accused, was convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo OneYear Simple Imprisonment and to pay an amount of Rs.4,00,000/- [Rupees Five Lakhs Only] as compensation to the complainant, in default to undergo Two Months Simple Imprisonment.

4. The learned counsel for the Petitioner/Accused, would submit that this Court earlier by order dated 09.05.2019, in CrI.M.P.No.6583/2019, while suspending the sentence, had directed the petitioner to deposit a sum of Rs.2,00,000/-, which was 50 % of the cheque amount, within a period of two weeks from the date of receipt of a copy of that order and that due to her poor financial condition, the petitioner/accused was unable to raise funds to pay the said amount and thereby, the petitioner/accused did not surrender before the Trial Court and thereafter, pursuant to the warrant issued by the Trial Court, petitioner/accused had been secured and is in custody from 08.11.2019. He would further submit that without prejudice to the contentions raised by the petitioner/accused, the petitioner/accused is prepared to deposit the entire cheque amount before the Trial Court and furnish sureties before the Trial Court on or before 20.11.2019 and that there is also a likelihood settlement. He would further 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 and the petitioner/accused may be enlarged on bail.
5. The learned counsel appearing for the respondent would submit that cheque in question is dated on 15.01.2018 and that the petitioner has not paid any interest and the Trial Court had directed to pay the cheque amount in full as compensation, to the respondent/complainant. This Court had earlier granted suspension of sentence on condition and the petitioner/accused has not complied with the condition.
6. At this juncture, the learned counsel for the petitioner/accused would submit that the petitioner/accused is prepared to pay the entire cheque amount to the respondent/complainant.
7. 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 take a Demand Draft for a sum of Rs.4,00,000/- [Rupees Four Lakhs Only] in favour of the complainant on or before 20.11.2019 and produce it before the Trial Court at the time of furnishing sureties. On suitable petition being filed by the respondent/complainant, the Trial Court shall hand it over the same to the respondent/complainant.
 - b) 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 Court, Fast Track Court No.I, Erode.
 - 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.

Post the matter for reporting compliance on 22.11.2019.

-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 I ADDITIONAL DISTRICT
SESSIONS COURT, ERODE.

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

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE. [FOR INFORMATION]

+1 C.C. to M/S.I.C.VASUDEVAN Advocate on payment of necessary
charges SR.NO.23558

Order
in
CRL MP.16723/2019
in
CRL.R.C.NO.434/2019

सत्यमेव जयते Date :15/11/2019

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

TA-15/11/2019

WEB COPY