

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Nineteenth day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.16855 of 2019

IN CRL.R.C.NO.1251 of 2019

G.SIVAGNANAM [PETITIONER]

Vs

BALU @ CHINNASAMI [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 in order dated 24.10.2019, made in Crl.A.No.22/2018, on the file of the Additional District and Sessions Judge, Dharmapuri, reversing the order dated 30.08.2013 made in STC No.115/2011 on the file of the Judicial Magistrate, NO.1, (FTC), Dharmapuri, Pending disposal of the above Crl.R.C.No.1251 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.A.E.RAVICHANDRAN, Advocate for the petitioner, the court made the following order:-

WEB COPY

1.These Criminal Miscellaneous Petitions have been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed vide judgment, dated 24.10.2019, made in Crl.A.No.22/2018, by the learned Additional District and Sessions Judge, Dharmapuri District, reversing the judgment of acquittal passed in S.T.C.No.115/2011, dated 30.08.2013, by the Judicial Magistrate, Fast Track Court, Dharmapuri District, pending disposal of the Criminal Revision Case.

2.This court heard the learned counsel for the petitioner and also perused the materials placed on record.

<https://hcservices.ecourts.gov.in/hcservices/>

3.In and by both the impugned judgement of the Lower Appellate Court,

the petitioner/accused was convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo One Year Simple Imprisonment and to pay a fine of Rs.20,00,000/- as compensation of the compensation to the complainant in default to undergo Three Months Simple Imprisonment.

4. The learned counsel for the Petitioner/accused would submit that the Trial Court had acquitted him and the order of acquittal was reversed by the Lower Appellate Court and the petitioner has been convicted. According to the learned counsel for the petitioner/accused, there are arguable points available in the Criminal Revision, 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 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 contention, the petitioner/accused is prepared to deposit 20% 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 Rs.4,00,000/- [Rupees Four Lakhs Only) which is 20% 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 disbursement of this amount shall be decided at the culmination of the criminal revision case. 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, for a like sum to the satisfaction of the learned Judicial Magistrate, (FAC), Dharmapuri.

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.

Post the matter on 17.12.2019 for reporting compliance.

-sd/-
19/11/2019

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 ADDITIONAL DISTRICT AND SESSIONS JUDGE,
DHARMAPURI DISTRICT.

2 THE JUDICIAL MAGISTRATE, FAST TRACK COURT,
DHARMAPURI DISTRICT.

3 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI. [FOR INFORMATION]

+1 C.C. to M/S.A.E.RAVICHANDRAN, Advocate on payment of
necessary charges SR.NO.23764

Order

in
CRL MP.16855/2019

in
CRL.R.C.NO.1251/2019

Date :19/11/2019

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TA-21/11/2019

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