

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 NOS.16814 & 16816 OF 2019

IN CRL.RC.NO.1248 OF 2019

K.KIRUBAKARAN

[PETITIONER]

Vs

V.SUBRAMANIAN

[RESPONDENT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.1248 OF 2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence in Criminal Appeal No.157 of 2018 dated 30.04.2019 on the file of 1st Additional District Judge, Salem in S.T.C.No.376 of 2016 dated 27.04.2018 on the file of Judicial Magistrate-2, Salem, in CRL.RC.NO.1248 OF 2019 [IN CRL.MP.NO.16814 OF 2019]

[ii] exempt from surrendering the petitioner by order made in Criminal Appeal No.157 of 2018 dated 30.04.2019 on the file of 1st Additional District Judge, Salem in S.T.C.No.376 of 2016 dated 27.04.2018 on the file of Judicial Magistrate-2, Salem, in CRL.RC.NO.1248 OF 2019 [IN CRL.MP.NO.16816 OF 2019]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.1248 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.K.SATHISH KUMAR, Advocate for the petitioner, the court made the following order:-

- 1.These Criminal Miscellaneous Petitions have been filed by the Petitioner/Accused, seeking suspension of conviction and sentence of imprisonment, imposed vide judgment, dated 30.04.2019, made in Crl.A.No.157/2018, by the learned I Additional District Judge, Salem, confirming the judgment of conviction and sentence of imprisonment passed in S.T.C.No.376/2016, dated 27.04.2018, by the Judicial Magistrate No-II, salem and to exempt the Petitioner/Accused, from surrendering before the Trial Court, by the Judgment dated 30.04.2019, made in Crl.A.No.157/2018, by the I Additional District Judge, Salem, respectively, pending disposal of this Criminal Revision Case.

- 2.This court heard the submissions made by the learned counsel for the Petitioner/Accused and also perused both the impugned Judgments.
- 3.In and by the impugned judgement of the Trial Court, the Petitioner/Accused was convicted for the offence under Sections 138 and 141 of the Negotiable Instruments Act and sentenced to undergo Six Months Simple Imprisonment and to pay a fine of Rs.1,50,000/- as compensation within two month from the date of pronouncing of that Judgment.
- 4.The learned counsel for the Petitioner/Accused would submit that there are arguable points 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 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. Accordingly, till the disposal of the Criminal Revision Case, the reliefs of exemption from surrender before the Court, suspension of sentence and bail are granted on the following conditions :-
- a) The Petitioner/Accused shall deposit a sum of Rs.75,000/- (Rupees Seventy Five Thousand Only) 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 Judicial Magistrate No-II, salem.
- 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 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 1ST ADDITIONAL DISTRICT JUDGE,
SALEM.

2 THE JUDICIAL MAGISTRATE-2,
SALEM.

3 THE CHIEF JUDICIAL MAGISTRATE,
SALEM [FOR INFORMATION]

C.C. to M/S.K.SATHISH KUMAR Advocate on payment of necessary charges

Order

in
CRL MP.16814 & 16816 OF 2019
in
CRL.RC.NO.1248 OF 2019

Date :19/11/2019

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

<https://hcservices.ecourts.gov.in/hcservices/>
MK:21/11/2019