

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Second day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.17244 & 17247 of 2019

IN CRL.RC.NO.1274 OF 2019

VISWANATHAN

[PETITIONER]

Vs

SENTHIL KUMAR

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1274/2019 on the file of the High Court, the High Court will be pleased to

[I]suspend the sentence imposed by the Learned District and Sessions Judge, Thiruvavarur in C.A.No.22/2018 dated 27.06.2019 confirming the judgment of the Learned Judicial Magistrate, Mannargudi in STC No.1354/2017 dated 25.04.2018 sentencing to undergo 6 months S.I for the offence u/s 138 of Negotiable Instruments Acts 1881 and enlarge the petitioner/appellant/Accused in bail pending above criminal revision.[CRL.MP.NO.17244/2019]

[II]exempt the petitioner from surrendering in pursuance of the order passed by the learned district and Sessions Judge, Thiruvavarur in C.A.NO.22 of 2018 dated 27.06.2019 confirming the judgment of the learned Judicial Magistrate NO.I,Mannargudi in S.T.C.NO.1354/2017 dated 25.04.2018 sentencing to undergo 6 months S.I and pay Rs.3,00,000/- as compensation i/d i month S.I for the offence u/s.138 of Negotiable Instruments Acts 1881 or pass any other order such order.[CRL.MP.NO.17247/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.1274/2019 on the file of the High Court and upon hearing the arguments of M/S.SWAMISUBRAMANIAN, 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 27.06.2019, made in Crl.A.No.22/2018, by the District and Sessions Judge, Thiruvavarur, confirming the judgment of conviction and sentence of imprisonment passed in S.T.C.No.1354/2017, dated 25.04.2018, by the Judicial Magistrate No-I, Mannargudi and to exempt the Petitioner/Accused, from surrendering before the Trial Court, by the Judgment dated

27.06.2019, made in CrI.A.No.22/2018, by the District and Sessions Judge, Thiruvavarur, 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 Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo Six Months Simple Imprisonment and to pay a fine of Rs.3,00,000/- as compensation to the complainant, in default to undergo One Month Simple Imprisonment.
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/accused 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 relief's 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.1,50,000/- (Rupees One Lakh Fifty Thousand Only), which is 50% of the cheque amount i.e., Rs.3,00,000/- 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-I, Mannargudi.
 - 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.

at 10.30a.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 20.12.2019 for "reporting compliance".
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-sd/-

22/11/2019

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 DISTRICT AND SESSIONS
JUDGE, THIRUVARUR

2 THE JUDICIAL MAGISTRATE,
NO. I, MANNARGUDI

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR [FOR INFORMATION]

+1 C.C. to M/S. SWAMISUBRAMANIAN Advocate on payment of
necessary charges SR.NO. 24100

WEB COPY

Order

in

CRL MP.17244 & 17247/2019

IN CRL.RC.NO.1274 OF 2019

Date : 22/11/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 03/12/2019