

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Thursday, the Nineteenth day of December Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice R.MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.18933 of 2019

IN CRL.R.C.NO.1494 of 2019

J.NATARAJ

[ PETITIONER ]

Vs

C.GANESHAMURTHY

[ 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 vide Judgment of the Learned Sessions Judge of the Nilgiris at Udhagamandalam in Crl.A.No.107/2017 dated 28.01.2019 confirming the Judgment of the Learned Judicial Magistrate Court at Ootacamund in C.C.No.174/2011 dated 12.04.2017 enlarge him on bail pending disposal of the Crl.R.C.No.1494 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. K.V.SAJEEVKUMAR, Advocate for the petitioner, the court made the following order:--

By judgement, dated 12.04.2017 passed by the learned Judicial Magistrate, Udhagamandalam, in C.C.No.174 of 2011, the petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act and was sentenced to undergo Simple Imprisonment for a period of six months and was further directed to pay compensation of Rs.5,00,000/-, failing which, he shall undergo simple imprisonment for a further period of one month. Challenging the said conviction and sentence, the petitioner preferred an appeal in Crl.A.No.107 of 2017 before the learned Sessions Judge, Nilgiris at Udhagamandalam, in which, the Appellate Court has confirmed the judgement of the Trial Court and dismissed the Appeal, on 28.01.2019. Aggrieved over the same, the petitioner has filed the present Criminal Revision Case, along with the Miscellaneous Petition seeking suspension of sentence, pending disposal of this Criminal Revision.

2. According to the learned counsel for the Petitioner, the petitioner has rebutted the presumption as contemplated under Section 139 of the Negotiable Instruments Act; that there are arguable points available in the Criminal Revision Case, which is not likely to be taken up for final hearing in the near future and hence, the substantive sentence imposed against the petitioner can be suspended.

3. Heard the learned counsel for the petitioner and also perused the materials placed on record.

4. Considering the facts, circumstances and the submissions made by the learned counsel for petitioner, this Court is of the view that the petitioner herein can be granted the relief of suspension of sentence. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner herein is directed to be enlarged on bail on the following conditions:-

- a) The Petitioner / Accused shall deposit a sum of Rs.2,00,000/- (Rupees two lakhs only) before the Trial Court, on or before 03.01.2020;
- b) On such deposit being made, the Trial Court shall redeposit the said amount in a Fixed Deposit Account, in anyone of the Nationalized Banks initially for a period of three years, which shall be renewal periodically, till the disposal of the Revision. The disbursement of this amount shall be decided at the culmination of the Criminal Revision Case.
- c) Upon compliance of the first condition on or before 03.01.2020, by the petitioner, he 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 of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate, Udhagamandalam;
- d) The petitioner / accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Magistrate can obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities;
- e) The petitioner / accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every English Calendar month, until the disposal of the Revision Case and if he is not able to appear before the Trial Court on any day, due to unavoidable circumstances, 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 his absence, as directed by the Trial Court. Such an application shall not be entertained often.

On the failure of the petitioner / accused depositing the said amount within the time stipulated, as aforesaid, it is open to the Trial Court to commit the petitioner / Accused into custody for undergoing the sentence.

-sd/-  
19/12/2019

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 JUDICIAL MAGISTRATE,  
UDHAGAMANDALAM.

2 THE CHIEF JUDICIAL MAGISTRATE  
NILGIRIS. [FOR INFORMATION]

3 THE SUPERINTENDENT,  
CENTRAL PRISON JAIL, COIMBATORE.

4 THE SESSIONS JUDGE OF  
THE NILGIRIS AT  
UDHAGAMANDALAM.

+1 C.C. to M/S. K.V.SAJEEVKUMAR Advocate on payment of  
necessary charges SR.NO.26140

सत्यमेव जयते Order

in  
CRL MP.18933/2019  
in  
CRL.RC.No.1494/2019  
Date :19/12/2019

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TA-26/12/2019