

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.17278 of 2019

IN CRL.R.C.NO.1278 of 2019

ANTHONY SOPHIYA

[PETITIONER]

Vs

N.REGHU NANADHANAN

[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 execution of order dated 22/08/2019 passed in Crl.Appeal.No.88/2017 by the Learned I Additional District and Sessions Judge, Thiruvallur partly modifying the Conviction and sentence imposed by order dated 30/05/2017 in S.T.C.No.105/2016 on the file of Judicial Magistrate, Fast Track Court, Magisterial Level, Thiruvallur, and enlarge the petitioner on bail.

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.V.MANO HAR, Advocate for the petitioner, the court made the following order:-

सत्यमेव जयते

- 1.This Criminal Miscellaneous Petition has been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed vide judgment, dated 22.08.2019, made in Crl.A.No.88/2017, by the learned I Additional District and Sessions Judge, Thiruvallur, partly modifying the judgment of conviction and sentence of imprisonment passed in S.T.C.No.105/2016, dated 30.05.2017, by the Judicial Magistrate, Fast Track Court at Magisterial Level, Thiruvallur, 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.
- 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 Four Months Simple Imprisonment and to pay an amount of Rs.85,333/- to the complainant and in default to undergo One Month Simple

Imprisonment. In and by the impugned Judgment of the Appellate Court, the petitioner/accused was convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881, however, the sentence of imprisonment for four months is confirmed and compensation amount of Rs.85,333/- is imposed on the appellant in default of payment of which, the appellant shall undergo Two Months Simple Imprisonment and the fine amount shall be paid within two months from the date of that judgment and on payment of fine amount, the respondent is entitled to withdraw the same.

4. The learned counsel for the petitioner/accused would submit that the petitioner is a lady and that the Trial Court found the petitioner guilty for the offence under Section 138 of the Negotiable Instruments Act, convicted and sentenced to undergo Simple Imprisonment for four months and also to pay an amount of compensation of Rs.85,333/- to the complainant under Section 357(3) of Cr.P.C., and in default to undergo One Month Simple Imprisonment however, on appeal, the Appellate Court, set aside the sentence of imprisonment and only confirmed the sentence of fine amount of Rs.85,333/- in default of payment to undergo Simple Imprisonment for Three Months. He would further submit that the petitioner is being a lady and she is unable to raise funds and that the petitioner has been arrested and she is now in prison and that the petitioner is prepared to deposit 25% of the cheque amount viz., Rs.85,333/- within time frame to be fixed by this Court after she comes out on bail and 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.

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 a sum of Rs.25,000/- [Rupees Twenty Five Thousand Only] before the Trial Court, within a period of two weeks from the date of release from prison 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 Criminal Revision Case.

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, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Judicial Magistrate, Fast Track Court at Magisterial Level, Thiruvallur.

c) 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.

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 06.12.2019 for reporting compliance.

-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 I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THIRUVALLUR.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT AT MAGISTERIAL LEVEL,
THIRUVALLUR,

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

+2 C.C. to M/S.V.MANO HAR, Advocate on payment of necessary charges SR.NO.24086

Order

in
CRL MP.17278/2019

IN
CRL.R.C.NO.1278/2019

Date :22/11/2019

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TA-22/11/2019