

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Eighth day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION Nos.17684 & 17685 of 2019

IN CRL.RC.NO.1306 OF 2019

M.CHITRA

[PETITIONER IN BOTH MPS]

Vs

K.AROKIYAMARY

[RESPONDENT IN BOTH MPS]

Petitions praying that in the circumstances stated therein the High Court will be pleased to

(i)suspense the imprisonment imposed to the petitioner by the Appellate court and Judgement dated 12.11.2019 made in C.A.No.66 of 2019 (On the file of the IInd Additional District and Sessions Judge, Erode) confirming the Judgment dated 04.02.2019 made in S.T.C.No.142 of 2016 on the file Judicial Magistrate Fast Track court No.II, Erode, in Crl.RC.NO.1306/2019. (IN CRL.M.P.No.17684/2019)

(ii)exempt the petitioner to surrender before the Appellate court on the judgment dated 12.11.2019 made in C.A.No.66 of 2019 (on the file of the IInd Additional District and Sessions Judge, Erode) confirming the judgment dated 04.02.2019 made in STC No.142 of 2016 on the file Judicial Magistrate Fast Track court No.II, Erode, in Crl.RC.NO.1306/2019. (IN CRL.M.P.No.17685/2019)

Order : These petitions coming on for orders upon perusing the petitions and upon hearing the arguments of M/S.C.S.SARAVANAN, 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 12.11.2019, made in Crl.A.No.66/2019, by the II Additional District and Sessions Judge, Erode District, Erode, confirming the conviction and sentence of imprisonment imposed by the judgment dated 04.02.2019, made in S.T.C.No.142/2016, by the Judicial Magistrate Fast Track Court No-II, Erode and to exempt the petitioner/accused, from surrendering before the Trial Court, by the Judgment, dated 12.11.2019, made in Crl.A.No.66/2019, by the II Additional District and Sessions Judge, Erode District, Erode, 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 and sentenced to undergo One Year Simple Imprisonment and to pay a fine of Rs.5,000/- and in default, to undergo Three Months Imprisonment.

4.The learned counsel for the petitioner/accused would submit that the petitioner/accused is a lady and 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/accused 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/accused, 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 surrendering before the Trial Court, suspension of sentence and bail are granted on the following conditions :-

a) The petitioner/accused shall deposit a sum of Rs.1,75,000/- (Rupees One Lakh Seventy Five Thousand Only) which is 50% of the cheque amount, i.e., Rs.3,50,000/- 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, Fast Track Court No-II, Erode.

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 10.30a.m., on the first working day of every month, until the disposal of the revision petition and if the petitioner/accused is not able to appear before the Trial Court on any day, she 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 her 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 02.01.2020 for "reporting compliance".

-sd/-
28/11/2019

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 JUDICIAL MAGISTRATE,
FAST TRACK COURT, NO.II, ERODE.

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE (FOR INFORMATION)

3 II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, ERODE.

C.C. to M/S.C.S.SARAVANAN Advocate on payment of necessary charges Sr.24696

WEB COPY

Order
in
CRL MP.Nos.17684 & 17685 of 2019

IN CRL.RC.NO.1306 OF 2019

Date :28/11/2019

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