

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twelfth day of December Two Thousand Nineteen

PRESENT

The Hon'ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.18464 of 2019

in CRL.R.C.No.1426 OF 2019

A.ANBU SELVAN

[PETITIONER]

Vs

A.EZHILMURUGAN

[RESPONDENT]

Petition praying that in the circumstances stated therein the High Court will be pleased to suspend the execution of the imprisonment confirmed in the judgment dated 18.10.2019 in C.A.No.34 of 2019 passed by the Learned III Additional Sessions Judge at Villupuram @ Kallakuruchi, imposed in judgment dated 19.03.2019 in C.C.No.143/2017 by the Learned Judicial Magistrate(Fast Track Court Level), Kallakurichi and all its further proceedings till the pendency of this Crl.R.C.No.1426 of 2019.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S. K.VENKATAPATHY, Advocate for the petitioner the court made the following order:-

By judgement, dated 19.03.2019 passed by the learned Judicial Magistrate (Fast Track Court Level), Kallakurichi, in C.C.No.143 of 2017, the petitioner was convicted for the offence under Section 138 read with 142 of the Negotiable Instruments Act and the petitioner / accused was sentenced to undergo simple imprisonment for a period of one year and was directed to pay compensation of Rs.10,00,000/-, failing which, he shall undergo simple imprisonment for a further period of three months. Challenging the said conviction and sentence, the petitioner preferred an appeal in Crl.A.No.34 of 2019 before the learned III Additional Sessions Judge, Villupuram @ Kallakurichi, in which, the Appellate Court has confirmed the judgement of the Trial Court. 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 mandatory deposit of 20% had already been deposited; that 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 may 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.3,00,000/- (Rupees three lakhs only) before the Trial Court, on or before 02.01.2020;
- 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 disbursal of this amount shall be decided at the culmination of the Criminal Revision Case.
- c) Upon compliance of the first condition on or before 02.01.2020, by the petitioner, 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 learned Judicial Magistrate (Fast Track Court), Kallakurichi;
- d) The petitioner / accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Magistrate may 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 Calender 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.

f) 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/-

12/12/2019

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,
(FAST TRACK COURT LEVEL), KALLAKURICHI

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM(FOR INFORMATION)

3 III ADDITIONAL SESSIONS JUDGE,
VILLUPURAM @ KALLAKURICHI

C.C. to M/S. K.VENKATAPATHY Advocate on payment of necessary charges SR.25603

Order

in
CRL MP.18464/2019

in CRL.R.C.No.1426 OF 2019

Date :12/12/2019

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RVR 18/12/2019