

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twentieth day of December Two Thousand Nineteen

PRESENT

The Hon'ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION Nos.18566, 18567, 18570,

18571, 18728 and 18729 of 2019

in Crl.RC.Nos.1447 and 1448 of 2019

R.BASKAR

[PETITIONER]

PROPRIETOR AND AUTHORIZED SIGNATORY

MSP STEEL AGENCIES,

Vs

M/S. RITE STEEL INDUSTRIES PVT.LTD.,
REP. BY DIRECTOR MR. P.VAIDYANATHAN,

[RESPONDENT]

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

(i)suspend the sentence of the Court of the 1 Additional District and Sessions Judge, Tiruvallur in C.A.Nos.19 7 18 /2018 dated 13.09.2019 confirming the judgment and sentences passed by the Fast Track Court, Magisterial Level Tiruvallur in S.T.C.Nos.13 & 12 of 2016,dated 12.12.2017 pending disposal of the above Crl.R.C.Nos.1447 & 1448/2019. [IN CRL.MP.NO.18566 & 18570/2019]

(ii)enlarge the petitioner on bail in this Honble court in pending disposal Crl.R.C.No.14472019 against Crl.A.Nos.18 &19/2018 on the file of the I Additional District and Sessions Judge, Thiruvallur against STC Nos.12 & 13/2016 on the file of the Fast Track Court, (Magisterial Level) Tiruvallur pending disposal of the above Crl.R.C.Nos.1447 & 1448/2019. [CRL.MP.NO.18728 & 18729 /2019]

(iii)exempt the petitioner from surrender for the judgement passed in the I Additional District and Sessions Judge at Thiruvallur in C.A.Nos.19 & 18 /2018 order dated 13.09.2019 and the Fast Track Court, Magisterial Level, Tiruvallur in S.T.C. Nos.13 & 12 of 2016,dated 12.12.2017 pending disposal of the above Crl.R.C.Nos.1447 & 1448/2019. [IN CRL.MP.NO.18567 & 18571/2019]

Order : These petitions coming on for orders upon perusing the petitions and upon hearing the arguments of M/S. J.J.R.EDWIN, Advocate for the petitioner [IN CRL.RC.NOS.1447 & 1448 and CRL.MP.NOS.18566,18567,18570 & 18571/2019] M/S.T.K.SATHIA SEELAN Advocate [in CRL.MP.NOS.18728 & 18729/2019 the court made the

By judgements, (both) dated 12.12.2017 passed by the Judicial Magistrate, Fast Track Court, (Magisterial Level), Thiruvallur, in S.T.C.Nos.13 and 12 of 2016, 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 one year and eight months, respectively, and further directed to pay the compensation amounts of Rs.8,64,506/- and Rs.4,58,562/- to the complainants, within one month. Challenging the said conviction and sentence, the petitioner has preferred Appeals in Crl.A.Nos.19 and 18 of 2018 before the learned I Additional District and Sessions Judge, Thiruvallur, in which, the judgements of conviction and payment of compensation amounts were affirmed and the sentence alone was modified to four months. Aggrieved over the same, the petitioner has filed the present Criminal Revision Cases. He also filed three Miscellaneous Petitions (in each of the above cases) seeking suspension of sentence, exemption from surrendering and to enlarge the petitioner on bail, pending disposal of these Criminal Revisions.

2. This Court passed a conditional order dated 17.12.2016 directing the petitioner to deposit a sum of Rs.5,00,000/- before the trial court. Learned counsel for the petitioner submitted that the said conditional order has been complied with and filed a memo dated 19.12.2019 to that effect.

3. According to the learned counsel for the petitioner, there are copious materials on record to prove that there are no legally enforceable debts and the petitioner has rebutted the presumption contemplated under Section 139 of the Negotiable Instruments Act. The learned counsel further submitted that there are arguable points available in the Criminal Revision Cases, which are 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, he may be enlarged on bail and the Petitioner may be exempted from surrendering before the Trial Court.

4. At this juncture, it is relevant to point out that the Supreme Court, in Bihari Prasad Singh v. State of Bihar and another [2000 SCC (Crl) 1380], was of the view that while seeking the relief of suspension of sentence, the accused need not necessarily be under confinement. In Ibrahim v. State of Kerala [1979 KLT 857], it was held that for grant of suspension of sentence, the accused need not surrender and undergo confinement and filing revision without surrendering and confinement is well within the powers contemplated under Section 397(1) Cr.P.C, as the said provision itself is very unequivocal and unambiguous.

5. In the light of the aforesaid legal propositions and considering the facts and circumstances of the case and also taking note of 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 subject to certain conditions. Accordingly, till the disposal of these Criminal Revision Cases, the

reliefs of exemption from surrender before the Trial Court, suspension of sentence and bail are granted, on the following conditions:-

- a) Since the petitioner has already deposit a sum of Rs.5,00,000/- (Rupees five lakhs only), the Trial Court shall redeposit the said amount in a fixed deposit account in any nationalized bank initially for a period of three years, which shall be renewed for the similar period, till the disposal of these revisions. The disbursal of this amount shall be decided at the culmination of the Criminal Revision Cases.
- 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 (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) 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 these revision cases 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.

6. Post the matter on 20.01.2020 for reporting compliance.

-sd/-

20/12/2019

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 I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, THIRUVALLUR

<https://hcservices.ecourts.gov.in/hcservices/>

2 THE FAST TRACK COURT
MAGISTERIAL LEVEL, TIRUVALLUR.

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

C.C. to M/S. J.J.R.EDWIN Advocate on payment of necessary charges

+2 C.C. to M/S.T.K.SATHIA SEELAN Advocate on payment of necessary charges SR.NOs. 26434 & 26306

Order

in

CRL MP.Nos.18566, 18567, 18570,

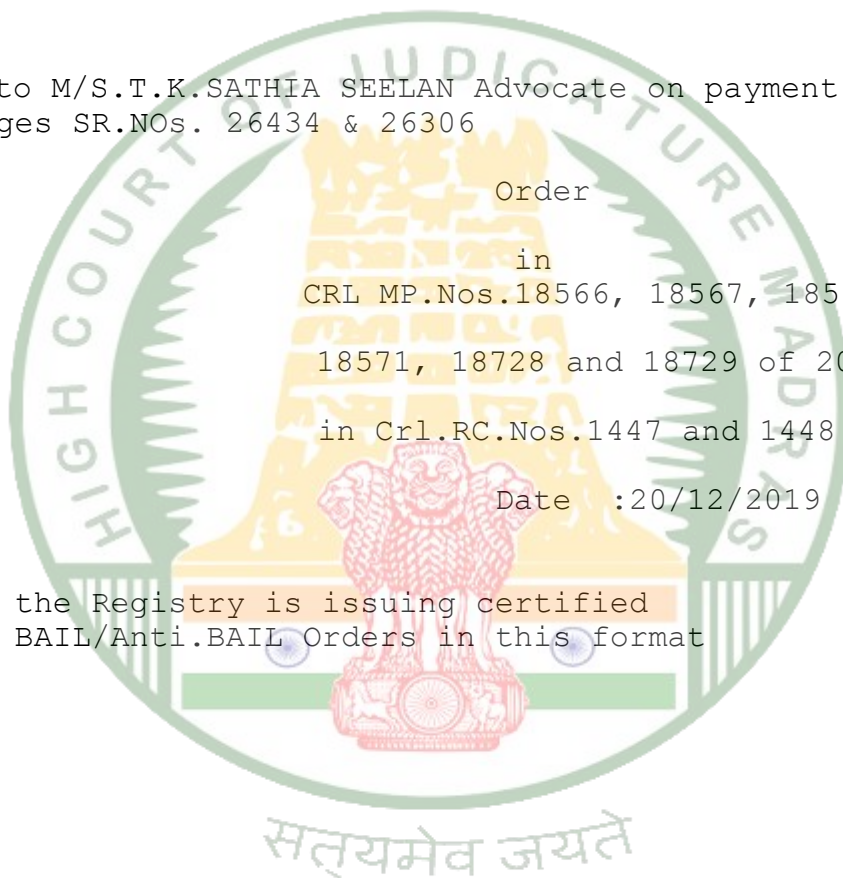
18571, 18728 and 18729 of 2019

in Crl.RC.Nos.1447 and 1448 of 2019

Date :20/12/2019

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

RVR 20/12/2019



WEB COPY