

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eleventh day of December Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.18335 of 2019

IN CRL.R.C.NO.1403 of 2019

P.SANTHOSHAKUMAR

[PETITIONER]

Vs

R.THANGADURAI

[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 passed by the learned Judicial Magistrate, of Sulur in C.C.NO.17 of 2018 dated 23.02.2018 which has been petitioner was sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.3000/- in default to undergo 3 months simple imprisonment which has been confirmed by the learned IV Additional District and Sessions Judge, Coimbatore in C.A.No.102 of 2018 dated 21.10.2019.

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.THILAGESWARAN, Advocate for the petitioner, the court made the following order:-

By judgment, dated 23.02.2018 passed by the learned Judicial Magistrate, Sulur, Coimbatore District, in C.C.No.17/2018, 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 further directed to pay compensation of Rs.3,000/- to the complainant, 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.102 of 2018 before the learned IV Additional District and Sessions Judge, Coimbatore, in which, the order of conviction and sentence imposed by the trial court was confirmed. Aggrieved over the same, the petitioner filed the Criminal Revision Case. He also filed yet another Miscellaneous Petition seeking suspension of sentence pending disposal of this Criminal

2. According to the learned counsel for the Petitioner, there are copious materials on record to prove that there is no legally enforceable debt 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 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 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 the Criminal Revision Case, the reliefs of suspension of sentence and bail are granted, on the following conditions:-

- a) The Petitioner/Accused shall deposit, Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand Only) before the Trial Court, within four weeks from the date of receipt of a copy of this order;
- b) On such deposit being made, 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 this revision. The disbursement of this amount shall be decided at the culmination of the Criminal Revision Case.
- c) 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 of whom, one should be a blood relative, each for a like sum to the satisfaction of the Judicial Magistrate, Sulur, Coimbatore District;
- d) 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.
- e) 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 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, it is open to the Trial Court to commit the Petitioner/ Accused into custody for undergoing the sentence.

Post the matter on 10.01.2020 for reporting compliance.

-sd/-
11/12/2019

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 IV ADDITIONAL DISTRICT
AND SESSIONS JUDGE, COIMBATORE,

2 THE JUDICIAL MAGISTRATE,
SULUR, COIMBATORE DISTRICT.

3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE. [FOR INFORMATION]

C.C. to M/S.K.THILAGESWARAN Advocate on payment of necessary charges

Order

in
CRL MP.18335/2019

in
CRL.R.C.NO.1403/2019

Date :11/12/2019

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

TA-17/12/2019