

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Thirteenth day of December Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION NO.18194 OF 2019

IN CRL.RC.NO.1374 OF 2019

R.DURAISAMY

[PETITIONER]

Vs

V.C.VELMURUGAN

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.1374 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence made in judgment dated 28.11.2019 in C.A.No.18/2019 on the file of the learned III Additional District Sessions Judge, Erode confirming the judgment passed by the learned Judicial Magistrate No.I, Gobichettipalayam in STC.No.468/2016 dated 04/06/2019 to undergo 6 months of simple imprisonment and to pay compensation sum of Rs.15,00,000/- pending disposal of this CRL.RC.NO.1374 OF 2019 [IN CRL.MP.NO.18194 OF 2019]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.1374 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.V.SUBRAMANIAN, Advocate for the petitioner, the court made the following order:-

The petitioner faced trial in STC.No.468 of 2016 on the file of learned Judicial Magistrate No.I, Gobichettipalayam. Under judgment dated 04.06.2019, the trial Court convicted him under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for six months and to pay a sum of Rs.15,00,000/- towards compensation. On appeal, the conviction and sentence imposed by the trial Court was confirmed by the learned III Additional District and Sessions Judge, Erode at Gobichettipalayam by judgment dated 28.11.2019. As against the aforesaid conviction and sentence, the petitioner has filed the Criminal Revision, along with the present petition seeking suspension of sentence.

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 available 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 and the petitioner may be exempted from surrendering before the Trial Court.

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.5,00,000/- (Rupees Five Lakhs 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. The disbursal 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 No.I, Gobichettipalayam;
- 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 10.30 a.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; and

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 13.01.2020 for reporting compliance.

-sd/-
13/12/2019

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 III ADDITIONAL DISTRICT
SESSIONS JUDGE, ERODE.

2 THE JUDICIAL MAGISTRATE,
NO.I, GOBICHETTIPALAYAM.

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

+1C.C. to M/S.V.SUBRAMANIAN Advocate on payment of necessary
charges SR NO.25801

Order

in

CRL MP.18194/2019

in

CRL RC.1374/2019

Date :13/12/2019

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

MK:17/12/2019