

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Thirtieth day of December Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice G.R.SWAMINATHAN

CRIMINAL MISCELLANEOUS PETITION NO.19190 of 2019

IN CRL.RC.NO.1523 OF 2019

V.MAA.RAMESH

[PETITIONER / APPELLANT / ACCUSED]

Vs

K.NAGALAKSHMI

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.1523 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the imprisonment imposed on to the petitioner by the Appellate Court and judgment dated 23.10.2019 made in C.A.No.389/2018 (On the file of the Ist Additional District and Sessions Judge, Erode) confirming the judgment dated 22.11.2018 made in S.T.C.NO.114 of 2017 on the file Judicial Magistrate Fast Track Court No.I, Erode in CRL.RC.NO.1523 OF 2019 [IN CRL.MP.NO.19190 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.1523 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.C.S.SARAVANAN, Advocate for the petitioner, the court made the following order:-

Petitioner was convicted for offences under Section 138 of the Negotiable Instruments Act and sentenced to 1 year S.I. and to pay a sum of Rs.1,00,000/- as compensation in default 2 months S.I. by learned Judicial Magistrate, Fast Track Court I, Erode, under judgment dated 22.11.2018 in S.T.C.No.114 of 2017. The conviction and sentence imposed by the trial Court was confirmed by learned I Additional District and Sessions Judge, Erode, under judgment dated 23.10.2019 in Crl.A.No.389 of 2018. Hence, petitioner seeks suspension of sentence.

2. Learned counsel for petitioner would submit that there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses. It is further represented that there is no precondition requiring the petitioner's surrender or being in confinement in availing the relief of suspension of sentence under Section 397 Cr.P.C. in exercise of revisional powers by this Court. The decisions of the Honourable Apex Court in **BIHARI**

PRASAD SINGH VS STATE OF BIHAR AND ANOTHER (2000 SCC (Cri) 1380)

and that of the **IBRAHIM VS STATE OF KERALA (1979 KLT 857)** are relied upon in this regard.

3. The above decisions have been relied upon time and again by this Court towards reaching the conclusion that in moving a revision against conviction, the accused need not surrender and undergo confinement before seeking the relief of suspension of sentence pending disposal of the Criminal Revision.

4. Therefore, in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the revision, as contended by learned counsel for petitioner, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

5. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of learned Judicial Magistrate, Fast Track Court I, Erode, and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending revision.

-sd/-

30/12/2019

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 I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, ERODE.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT NO.I, ERODE.

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

+1C.C. to M/S.C.S.SARAVANAN Advocate on payment of necessary charges SR NO.26696

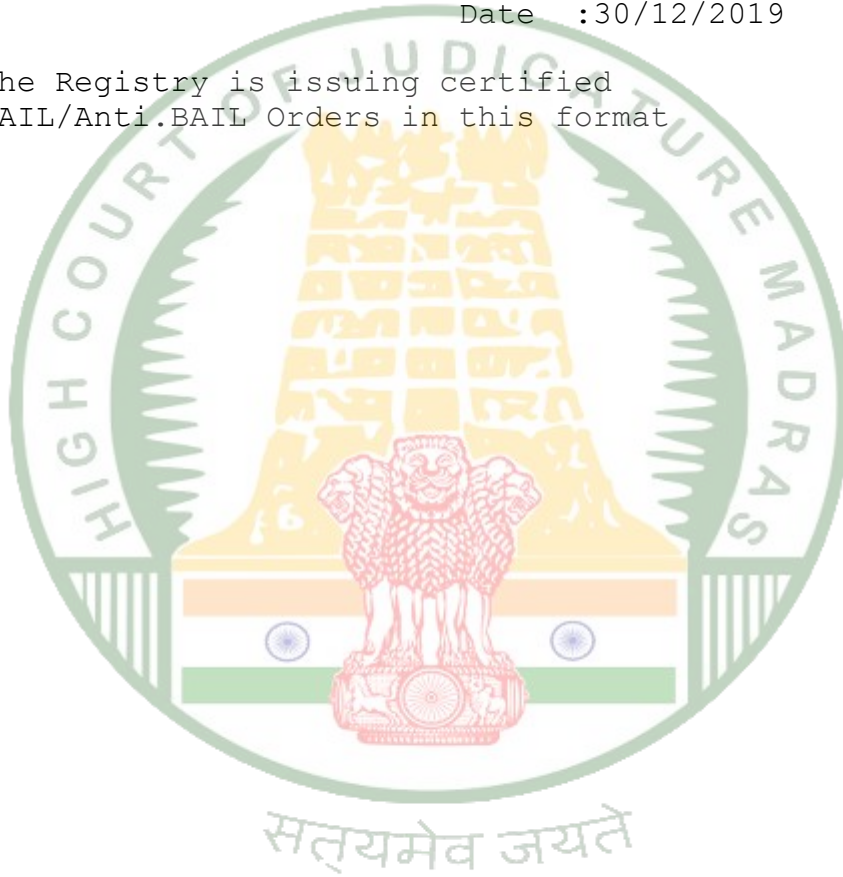
Order

in
CRL MP NO.19190/2019
in
CRL.RC.NO.1523/2019

Date :30/12/2019

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

MK:03/01/2020



WEB COPY