

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Eighth day of January Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.1037 of 2020

IN CRL.RC.NO.145 OF 2020

R.SASIKALA

[PETITIONER / REVISION PETITIONER /
APPELLANT / ACCUSED]

Vs

M.BHUVANESWARI

[RESPONDENT / RESPONDENT /
RESPONDENT / COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.145/2020 on the file of the High Court, the High Court will be pleased to suspend the execution of sentence and conviction passed by the learned Fast Track Court No.II Coimbatore in CC.No.1348 of 2017 dated 12.04.2019 and confirmed by the learned 1st Additional District and Sessions Judge, Coimbatore in CA.No.151 of 2019 dated 30.10.2019, pending disposal of the above Crl.RC.No.145/2020.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.145/2020 on the file of the High Court and upon hearing the arguments of M/S.M.A.SRINIVASAN, Advocate for the petitioner the court made the following order:-

The petitioner faced trial in C.C.No.1348/2017 on the file of learned Judicial Magistrate, Fast Track Court No.II, Coimbatore. Under judgment dated 12.04.2019, the trial Court convicted the petitioner under Section 138 of the Negotiable Instruments Act and sentenced her to undergo six months Simple Imprisonment, to pay compensation amount of Rs.4,00,000/- along with 6% interest per annum from the date of cheque in question, within a period of one month, failing which, the petitioner has to undergo three months Simple Imprisonment. As against the said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.151 of 2019 before the learned I Additional District and Sessions Judge, Coimbatore. By judgment dated 30.10.2019, the learned Appellate Judge has confirmed the conviction, compensation amount and sentence imposed by the trial court. As against the concurrent judgments, the petitioner has filed the Criminal Revision Case, 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 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.2,00,000/- (Rupees two 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 her 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 I Additional District and Sessions Judge, Coimbatore.
- d) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned appellate Judge 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 she is not able to appear before the Trial Court on any day, due to unavoidable circumstances, she 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 her 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.

-sd/-
28/01/2020

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 IST ADDITIONAL DISTRICT
AND SESSIONS JUDGE, COIMBATORE.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT NO.II,
COIMBATORE.

3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

+1 C.C. to M/S.M.A.SRINIVASAN Advocate on payment of necessary
charges SR.No.1551

Order

in
CRL MP.1037/2020

in
CRL.RC.145/2020

Date :28/01/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
cs 31/01/2020