



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Monday, the Thirteenth day of January Two Thousand Twenty

WEB COPY

PRESENT

The Hon'ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.383 of 2020

IN CRL.RC.NO.67 OF 2020

JAYARAJ

[PETITIONER]

Vs

SUNDARAVELU

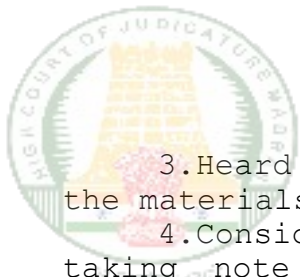
[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.67/2020 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in Crl.Appeal No.53 of 2018 by the Ist Additional District and Sessions Judge, Salem dated 19.12.2019 by reversing the judgment passed in STC No.190 of 2011 on the file of Judicial Magistrate no.3, Salem dated 28.06.2012 till the disposal of this criminal revision petition.[CRL.MP.NO.383/2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.67/2020 on the file of the High Court and upon hearing the arguments of M/S.R.MARUDHACHALAMURTHY, Advocate for the petitioner , the court made the following order:-

The petitioner faced trial in STC.No.190 of 2011 on the file of learned Judicial Magistrate No.3, Salem. Under judgment dated 28.06.2012, the trial Court has acquitted the petitioner. On an appeal in Criminal Appeal No.53 of 2018, the lower appellate court has convicted the petitioner for the offence under Section 138 of the Negotiable Instruments Act and sentenced him to undergo Simple Imprisonment for a period of one year and further directed to pay the compensation of Rs.1,10,000/- within three months. As against the aforesaid conviction, sentence and compensation amount, 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 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.30,000/- (Rupees Thirty 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 one of the Nationalized Banks, renewable thereafter periodically. The disbursal of this amount shall be decided at the culmination of the Appeal.
- 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.3, Salem;
- 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 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/-

13/01/2020

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 JUDICIAL MAGISTRATE,
NO.3, SALEM

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM[FOR INFORMATION]

+1 C.C. to M/S.R.MARUDHACHALAMURTHY Advocate on payment of
necessary charges SR.NO. 795

Order

in
CRL MP.383/2020

IN CRL.RC.NO.67 OF 2020

Date :13/01/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 20/01/2020