



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Thirteenth day of January Two Thousand Twenty

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PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.391 of 2020

IN CRL.RC.NO.72 OF 2020

DURGADEVI

[PETITIONER]

Vs

CHANDRASEKARAN

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.72/2020 on the file of the High Court, the High Court will be pleased to suspension the sentence of the one year simple imprisonment and fine of Rs. 5,10,000/- against the judgement and order of conviction passed on 11.12.2019 by the learned Iind Additional District Judge, Tindivanam in C.A.NO.88 OF 2018 in confirming the conviction and sentence passed in by the learned Judicial Magistrate No.1,Tindivanam in C.C.NO.2 OF 2018 and enlarge the petitioner on bail pending disposal of the above CRL.Rc.No.72/2020

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.72/2020 on the file of the High Court and upon hearing the arguments of M/S.P.HARI BABU, Advocate for the petitioner and of MR. V.V.SAIRAM Advocate on behalf of the Respondent the court made the following order:-

By judgment dated 29.10.2018 passed by the learned Judicial Magistrate No.1, Tindivanam, in C.C.No.2 of 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 one year and imposed a fine of Rs.10,000/- in default, to undergo further one month simple imprisonment. Challenging the said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.88 of 2018 before the learned II Additional District Judge, Tindivanam. Vide judgment dated 11.12.2019, the Appellate Court has dismissed the said appeal, confirming the judgment of conviction passed by the trial Court and enhancing the fine amount to Rs.5,10,000/-, out of which, Rs.5,00,000/- was ordered to be paid as compensation. Aggrieved over the same, the petitioner has filed the Criminal Revision Case along with 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. He 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 respondent on the submissions made by 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 on either side, 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 a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) within a period of four weeks from today and also deposit a further sum of Rs.5,00,000/- (Rupees Five Lakhs Only) within a period of four weeks thereafter, before the Trial Court;

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 Criminal Revision Case.

c) 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 Government servant, each for a like sum to the satisfaction of the Judicial Magistrate No.I, Tindivanam;

d) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned 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 English Calendar 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.



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.

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Post on 11.02.2020 for reporting compliance.

-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 IIND ADDITIONAL DISTRICT
JUDGE, TINDIVANAM

2 THE JUDICIAL MAGISTRATE,
NO.I, TINDIVANAM

3 THE CHIEF JUDICIAL MAGISTRATE
TINDIVANAM[FOR INFORMATION]

+1 C.C. to P.HARI BABU Advocate on payment of necessary charges
SR.NO. 801

Order

in
CRL MP.391/2020

IN CRL.RC.NO.72 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