

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Third day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.1217 of 2020

IN CRL.RC.NO.157 OF 2020

R.RAJASEKARAN

[PETITIONER / RESPONDENT /
ACCUSED]

Vs

EM.PALANISAMY

[RESPONDENT / RESPONDENT /
COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.157/2020 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner/accused by the learned 1st Additional District and Sessions Judge, Erode in Criminal Appeal No.13 of 2018 order dated 16.12.2019 and confirming order passed in STC No.170 of 2017 on the file of 1st Judicial Magistrate, Fast Track Court at Erode order dated on 05.12.2017, pending disposal of the above Crl.RC.No.157/2020.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.157/2020 on the file of the High Court and upon hearing the arguments of M/S.DR.G.BABU, Advocate for the petitioner the court made the following order:-

The petitioner faced trial in STC.No.170 of 2017 on the file of learned Judicial Magistrate, Fast Track Court No.I, Erode. Under judgment dated 05.12.2017, the trial Court convicted him under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of 10 months and to pay a compensation of Rs.18,00,000/- to the complainant, in default, to undergo simple imprisonment for a further period of 2 months. On appeal in C.A.No.13/2018, the conviction and sentence imposed by the trial Court was confirmed by the learned I Additional District and Sessions Judge, Erode, by judgment dated 16.12.2019. 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 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.6,00,000/- (Rupees Six Lakhs Only) before the Trial Court, within two 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, Fast Track Court No.I, Erode;
- 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 02.03.2020 for reporting compliance.

-sd/-
03/02/2020

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 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]

+2 C.C. to M/S.DR.G.BABU Advocate on payment of necessary
charges SR.No.8223

Order

in

CRL MP.1217/2020

in

CRL.RC.157/2020

Date :03/02/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
cs 12/02/2020