

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Fourth day of January Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.820 of 2020

IN CRL.RC.NO.123 OF 2020

1 SRI GANESH TEX [PETITIONERS]
REP.BY S.GOVINDARAJ,
MANAGING PARTNER,

2 S.GOVINDARAJ
SRI GANESH TEX MANAGING PARTNER,

Vs

R.KARTHIKEYAN [RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.123/2020 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in the order of conviction dated 11.12.2019 made in C.A.No.66 of 2018 on the file of the Principal Sessions Judge, Namakkal against the reversing the order of acquittal dated 16.06.2017 made in STC No.94 of 2016 on the file of the Judicial Magistrate, Fast Track ,Thiruchengode.[CRL.MP.NO.820/2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.123/2020 on the file of the High Court and upon hearing the arguments of M/S.M.GURUPRASAD Advocate for the petitioner the court made the following order:-

The petitioners faced trial in STC.No.94 of 2016 on the file of learned Judicial Magistrate, Fast Track Court, Thiruchengode. Under judgment dated 16.06.2017, the trial Court acquitted them under Section 138 of the Negotiable Instruments Act. Aggrieved over the same, the complainant filed C.A.No.66/2018 on the file of the learned Principal Sessions Judge, Namakkal. Vide Judgement dated 11.12.2019 in C.A.No.66/2018, the lower appellate court set aside the order of acquittal and found the accused 1 and 2 in STC.No.96/2016 guilty under Section 138 of the Negotiable Instruments Act, convicted the 2nd petitioner for himself and on behalf of the 1st petitioner and sentenced him to undergo 6 months simple imprisonment each and to pay a fine of Rs.2,80,000/-, failing which, to undergo simple imprisonment for 2 months, but dismissed the appeal in respect of the 2nd accused alone. As against the aforesaid conviction and sentence,

the petitioners 1 and 2 have filed the Criminal Revision, along with the present petition seeking suspension of sentence.

2. According to the learned counsel for the Petitioners, 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 petitioners may be suspended.

3. Heard the learned counsel for the petitioners 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 petitioners, 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 2nd Petitioner/2nd Accused for himself and on behalf of the 1st petitioner shall deposit Rs.50,000/- (Rupees Fifty Thousand Only) each 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 2nd Petitioner/2nd 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, Thiruchengode for him and on behalf of the 1st petitioner;
- d) The 2nd Petitioner/2nd 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 2nd Petitioner/2nd 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 Petitioners/Accused, depositing the said amount, it is open to the Trial Court to commit the 2nd Petitioner/ 2nd Accused into custody for undergoing the sentence.

Post the matter on 21.02.2020 for reporting compliance.

-sd/-
24/01/2020

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 PRINCIPAL SESSIONS JUDGE
NAMAKKAL

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT, THIRUCHENGODE

3 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL[FOR INFORMATION]

+1 C.C. to M/S.M.GURUPRASAD Advocate on payment of necessary charges SR.NO. 1478

WEB COPY
Order
in
CRL MP.820/2020

IN CRL.RC.NO.123 OF 2020

Date :24/01/2020

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format
RD 30/01/2020