

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Fifth day of February Two Thousand Twenty

PRESENT

The Hon'ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.1453 of 2020

IN CRL.RC.NO.194 OF 2020

V.MATHI AMUTHAN

[PETITIONER]

vs

N.GUNANITHI

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.194/2020 on the file of the High Court, the High Court will be pleased to pass an interim order of suspension of the sentence dated 14.06.2018 passed as against the petitioner by the Learned Judicial Magistrate, (Fast Track), Thiruvallur District in S.T.C.No.143/2015 and confirmed by the order dated 27.11.2019 in C.A.NO.112/2018, Passed by the learned II Additional district & Sessions judge, Thiruvallur at Poonamallee, pending disposal of the above revision. [CRL.MP.NO.1453/2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.194/2020 on the file of the High Court and upon hearing the arguments of MR.S.SHANMUGA VALAYUTHAM SENIOR COUNSEL FOR M/S. S.ANIL SANDEEP, Advocate for the petitioner and of MR. on behalf of the Respondent the court made the following order:-

The petitioner faced trial in STC.No.143 of 2015 on the file of learned Judicial Magistrate, Fast Track Court, (Magisterial Level No.II), Poonamallee. Under judgment dated 14.06.2018, the trial Court convicted him under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of 24 months and to pay a compensation of Rs.17,50,000/-, within a period of 4 months, in default, to undergo simple imprisonment for a further period of 4 weeks. On appeal in C.A.No.112/2018, the conviction and sentence imposed by the trial Court was confirmed by the learned II Additional District Judge, Tiruvallur @ Poonamallee, by judgment dated 27.11.2019. 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 Senior Counsel for the Petitioner, the cheque-in-question relates to the offence under Section 138 of the Negotiable Instruments Act and before initiation of Section 138

of Negotiable Instruments Act Proceedings, a notice on the ground of misuse of the cheque had already been issued by the petitioner to the respondent and hence, the learned Senior Counsel submits that there is no legally enforceable debt. But the lower court failed to consider the said aspect. The learned senior 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 senior 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 senior 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 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, (Magisterial Level No.II), Poonamallee;
- b) 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;
- c) 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.

-sd/-

05/02/2020

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 JUDICIAL MAGISTRATE,
FAST TRACK COURT[MAGISTERIAL LEVELNO.II]
POONAMALLEE

2 THE II ADDITIONAL DISTRICT
JUDGE, TIRUVALLUR @ POONAMALLEE

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALUR[FOR INFORMATION]

+3 C.C. to M/S. S.ANIL SANDEEP Advocate on payment of necessary
charges SR.NO. 2253

Order

in

CRL MP.1453/2020

IN CRL.RC.NO.194 OF 2020

Date :05/02/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 10/02/2020

सत्यमेव जयते

WEB COPY