

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Fourteenth day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION NO.1402 OF 2020

IN CRL.RC.NO.1027 OF 2013

D.SANTHOSH BAI

[PETITIONER]

Vs

D.KUMAR

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.1027 OF 2013 on the file of the High Court, the High Court will be pleased to suspend the execution of sentence dated 12.07.2013 passed in C.A.No.13 of 2011 passed against the revision petitioner by VIIth Additional Session Judge, City Civil Court, Chennai confirming the Judgment and sentence in C.C.No.9023 of 2007 on the file of IIInd Metropolitan Magistrate Court, Egmore, dated 14.02.2010 and enlarge the petitioner on bail pending disposal of above CRL.RC.NO.1027 OF 2013 [IN CRL.MP.NO.1402 OF 2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.1027 OF 2013 on the file of the High Court and upon hearing the arguments of M/S.S.RAVICHANDRAN, Advocate for the petitioner, the court made the following order:-

This petition is filed seeking to suspend the sentence imposed on the petitioner, by the judgment and order dated 14.02.2010 passed in C.C.No.9023 of 2007 on the file of the II Metropolitan Magistrate Court, Egmore, Chennai, confirmed by the judgment and order dated 12.07.2013 passed in C.A.No.13 of 2011 on the file of the VII Additional Sessions Court (City Civil Court), Chennai, pending disposal of the revision petition.

2. The petitioner, who was an accused in C.C.No.9023 of 2007 before the II Metropolitan Magistrate Court, Egmore, Chennai, was convicted of the offence under Section 138 of the Negotiable Instruments Act, 1881 (for brevity "the NI Act") and sentenced to one year simple imprisonment and to pay a fine of Rs.5,000/-, in default to undergo two months simple imprisonment.

3. The appeal in C.A.No.13 of 2011 filed by the petitioner/accused was dismissed by the VII Additional Sessions Court (City Civil Court), Chennai, on 12.07.2013.

4. Challenging the concurrent findings of fact arrived at by the Courts below the petitioner/accused has preferred the present revision invoking Section 397 r/w 401 Cr.P.C.

5. It is seen that this criminal revision was dismissed for non-prosecution on 04.09.2018, pursuant to which, the petitioner, who is a lady has been arrested and undergoing sentence in Central Prison, Puzhal.

6. This Court has set aside the order dated 04.09.2018 and has restored CrI.R.C.No.1027 of 2013 to file.

7. Today, the complainant D.Kumar, the respondent herein, is present before this Court and he has been identified by Mr.T.Shanmuga Boopathi (Enrollment No.1035 of 2000), Advocate. The respondent/complainant has filed an affidavit stating that he is agreeable for full and final settlement of the case if a sum of Rs.3,25,000/- is given. The relevant paragraphs of the affidavit is extracted as under:

"4. I State that in view above compromise, I have received a sum of Rs.2,25,000/- vide D.D.No.900198 drawn on Syndicate Bank, Purasawakam Branch, for amount of Rs.25,000/-
D.D.No.900199 drawn on Syndicate Bank, Purasawakam Branch, for amount of Rs.1,00,000/-
D.D.No.900200 drawn on Syndicate Bank, Purasawakam Branch, for amount of Rs.1,00,000/-

5. I stated that cheque amount is Rs.3,21,000/- and petitioner has deposited Rs.81,000/- (Rupees Eighty One Thousand Only) before the II Metropolitan Magistrate Court, Egmore, Chennai and petitioner has tendered Rs.2,25,000/- by way of Demand drafts herein and I further state I have received Rs.4,000/- from the petitioner herein.

6. I state I have received Rs.2,29,000/- excluding deposit amount of Rs.81,000/- before the trial Court by filing necessary application with indulgence of this Hon'ble court and above amount is as full and final settlement towards dishonoured cheque amount and hereby withdraw my complaint and place my no objection to allow the criminal revision and acquit the petitioner from above offence and consequent conviction herein."

8. The learned counsel for the petitioner/accused submitted that the accused has already deposited a sum of Rs.81,000/- in the trial Court vide receipt no.60971 dated 17.09.2013.

9. Today, the learned counsel for the petitioner/accused has handed over three demand drafts for Rs.2,25,000/- (1,00,000+1,00,000+25,000) to the complainant in favour of the respondent/complainant, the receipt of which, the respondent/complainant has acknowledged.

10. In view of the above, suspension of sentence and bail is granted to the petitioner on the following conditions:

(i) The petitioner shall execute 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 II Metropolitan Magistrate Court, Egmore, Chennai.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the II Metropolitan Magistrate Court, Egmore, Chennai, may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

-sd/-

14/02/2020

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 VII ADDITIONAL SESSIONS JUDGE,
(CITY CIVIL COURT), CHENNAI.

2 THE METROPOLITAN MAGISTRATE COURT NO.II,
EGMORE, CHENNAI.

3 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

4 THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON, PUZHAL

5 THE SUPERINTENDENT OF PRISON,
SPECIAL PRISON FOR WOMEN,
PUZHAL, CHENNAI-600 066.

+1C.C. to M/S.S.RAVICHANDRAN Advocate on payment of necessary charges SR NO.2966

Order

in
CRL MP.1402/2020
in
CRL RC.1027/2013

Date :14/02/2020

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

MK:14/02/2020



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