

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.1311 OF 2020

IN CRL.RC.NO.172 OF 2020

M.PRIYA

[PETITIONER / APPELLANT / ACCUSED]

Vs

V.LAKSHMI

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.172 OF 2020 on the file of the High Court, the High Court will be pleased to suspend the execution of the Sentence passed in C.C.No.540 of 2016 by the Learned Judicial Magistrate (Fast Track Court No.I) Coimbatore dated 20.09.2018 which was partly confirmed against the petitioner in C.A.No.457 of 2018, dated 31.10.2019 on the file of the learned District and Sessions Judge, Coimbatore

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.172 OF 2020 on the file of the High Court and upon hearing the arguments of M/S. J.KINGSLY SOLOMON, Advocate for the petitioner, the court made the following order:-

The petitioner faced trial in C.C.No.540 of 2016 on the file of learned Judicial Magistrate, Fast Track Court No.I @ Magisterial Level, Coimbatore. Under judgment dated 20.09.2018, the trial Court convicted her under Section 138 of the Negotiable Instruments Act and sentenced her to undergo simple imprisonment for a period of 6 months and to pay a compensation of Rs.4,84,000/- to the complainant, within a period of two months from the date of the judgment, in default, to undergo simple imprisonment for a further period of 2 months. On appeal in C.A.No.457/2018 by judgment dated 31.10.2018, the learned I Additional District and Sessions Judge, Coimbatore, while partly allowing the appeal by confirming the conviction under Section 138 of Negotiable Instruments Act, reduced the sentence of 6 months to 3 months simple imprisonment and the other portion of the sentence shall remain unaltered. 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.2,00,000/- (Rupees Two Lakhs Only) before the Trial Court, within four 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 her 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 @ Magisterial Level, Coimbatore;
- 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 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; 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 JUDICIAL MAGISTRATE,
(FAST TRACK COURT NO.I) @
MAGISTERIAL LEVEL, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
COIMBATORE.

C.C. to M/S. J.KINGSLY SOLOMON Advocate on payment of
necessary charges

WEB COPY

Order

in

CRL MP.1311/2020

in

CRL RC.172/2020

Date :03/02/2020

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