

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.1473 of 2020

IN CRL.R.C.NO.200 of 2020

P.BALASUBRAMANI

[PETITIONER]

Vs

S.B.KRISHNASAMY

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence imposed in against the petitioner in C.A.No.135/2017 dated 23.10.2019 on the file of the 1st Additional District Cum Sessions Judge, Salem confirming the conviction and sentence made in STC No.1280/2015 on the file of the Judicial Magistrate-I, Sankagiri sentencing the petitioner to undergo simple imprisonment for 6 months and to pay compensation of Rs.3,00,000/- and pass such further or other orders pending disposal of the Crl.R.C.NO.200 of 2020

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.K.S.KARTHIK RAJA, Advocate for the petitioner, and the court made the following order:-

The petitioner faced trial in STC.No.1280/2015 on the file of the learned Judicial Magistrate No.1, Sankagiri. Under judgment dated 09.11.2017, the trial Court convicted him under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of 6 months and to pay a compensation of Rs.3,00,000/- to the complainant. On appeal in C.A.No.135/2017, the conviction and sentence imposed by the trial Court was confirmed by the learned I Additional District Judge, Salem, by judgment dated 23.10.2019. 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.1,00,000/- (Rupees One Lakh 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 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 learned Judicial Magistrate No.1, Sankagiri;
- 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 04.03.2020 for reporting compliance.

-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 NO.1,
SANKAGIRI.

2 THE CHIEF JUDICIAL MAGISTRATE,
SALEM. [FOR INFORMATION]

3 THE 1ST ADDITIONAL DISTRICT CUM SESSIONS
JUDGE, SALEM.

C.C. to M/S.K.S.KARTHIK RAJA Advocate on payment of necessary
charges

Order
in
CRL MP.1473/2020
in
CRL.R.C.NO.200/2020
Date :05/02/2020

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

TA-12/02/2020