

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Fourth day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.1351 of 2020

IN CRL.R.C.No.177 OF 2020

R.MUNUSAMY

[PETITIONER]

Vs

SARASWATHY

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.177 OF 2020 on the file of the High Court, the High Court will be pleased to suspend the sentence of the order dated 03.10.2019 passed in C.A.No.186/2017 by the Principal Sessions Judge, Tiruvallur confirming the order in STC No.349/2015 dated 01.11.2017 of the Judicial Magistrate, Fast Track Court, Magistrate Level II, pending disposal of the above Crl.R.C.No.177 of 2020.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.177 of 2020 on the file of the High Court and upon hearing the arguments of M/S.P.V.SUDAKAR, Advocate for the petitioner the court made the following order:-

The petitioner faced trial in STC.No.349 of 2015 on the file of learned Judicial Magistrate, Fast Track Court, Magisterial Level No.II, Poonamallee. Under judgment dated 01.11.2017, the trial Court convicted him under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of 12 months and to pay a compensation of Rs.1,91,000/- to the complainant, within a period of three months from the date of the judgment, in default, to undergo simple imprisonment for a further period of 3 weeks. On appeal in Criminal Appeal No.186 of 2017 by judgment dated 03.10.2019, the learned Principal District and Sessions Judge, Tiruvallur District, dismissed the appeal by confirming the conviction and sentence imposed by the trial court. 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, as per the understanding between the parties, apart from issuing cheque, the petitioner started paying Rs.10,000/- per month and violating the understanding unilaterally, the respondent deposited the cheque and caused 138. Negotiable Instruments Proceedings and therefore, 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 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.I, 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; and
- d) 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.

-sd/-

04/02/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

TO

1 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT, MAGISTERIAL LEVEL NO.I,
POONAMALLEE.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR(FOR INFORMATION)

3 THE PRINCIPAL SESSIONS JUDGE,
TIRUVALLUR

C.C. to M/S.P.V.SUDAKAR Advocate on payment of necessary
charges SR.NO.2172

Order

in
CRL MP.1351/2020

IN CRL.R.C.No.177 OF 2020

Date :04/02/2020

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

RVR 10/02/2020



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