

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.1312 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 exempt from the surrender of the accused in view of the C.C.No.540/2016 by the Learned Judicial Magistrate, (Fast Track Court No.1) 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, who stood convicted for offence under Section 138 of Negotiable Instruments Act, seeks exemption from surrendering to custody, as a pre-condition for consideration of his bail application moved in the Revision Case preferred by him before this Court.

2. Considering the facts and circumstances of the case and the earlier decision of this Court in the case of **Easwaramurthy Vs. N.Krishnaswamy (2006) CRI.L.J. 4105** which in turn relied on the decision of the Apex Court in **Bihari Prasad Singh Vs. State of Bihar (2000) SCC (Cri) 1380**, wherein it has been categorically held that there is no precondition requiring the petitioner's surrender or being in confinement in availing the relief of suspension of sentence under Section 397 Cr.P.C. in exercise of revisional powers by the High Court, this Court considers it appropriate to allow this petition as prayed for.

3. Accordingly, the petitioner shall not be required to surrender before the trial Court, as per the judgment of the appellate Court dated 31.10.2018 in Criminal Appeal No.457 of 2018, pending disposal of the main revision.

-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) COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
COIMBATORE.

+1C.C. to MS/S.J.KINGSLY SOLOMON Advocate on payment of
necessary charges SR NO.2079

Order

in
CRL MP.1312/2020

in
CRL RC.172/2020

Date :03/02/2020

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MK:07/02/2020