

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Sixth day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.1619 of 2020

IN CRL.RC.NO.223 OF 2020

S.VISWESWARAN

[PETITIONER]

Vs

1 R.PADMANATHAN

[RESPONDENT]

2 THE PUBLIC PROSECUTOR
THE NILGRIS DISTRICT

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.223/2020 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed upon the petitioner and grant bail in CC No.468/2011 in the order of Fast Track Judicial Magistrate at Coonoor dated 06.06.2015 as confirmed in CA No.54/2015 before the court of Sessions Judge of Magalir Neethimandram (FTMC) Uthagamandalam at Nilgris, dated 6.12.2019. [CRL.MP.NO.1619/2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.223/2020 on the file of the High Court and upon hearing the arguments of M/S.J.R.PRABHAKARN, Advocate for the petitioner the court made the following order:-

The petitioner faced trial in C.C.No.468 of 2011 on the file of learned Judicial Magistrate, Fast Track, Coonoor. Under judgment dated 06.06.2015, the trial Court convicted him under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of one year and to pay a fine of Rs.2,000/- in default to undergo simple imprisonment for a further period of one month. On appeal in Criminal Appeal No.54 of 2015, the conviction and sentence imposed by the trial Court was confirmed by the learned Sessions Judge, Magalir Neethimandram (FMTC) Court, Uthagamandalam at Nilgiris, by judgment dated 06.12.2019. 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. He 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 a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) before the Trial Court, within a period of two weeks from the date of his release on bail, after furnishing requisite sureties;"
- 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) "[*]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 and the other one should be a Government servant, each for a like sum to the satisfaction of the learned Judicial Magistrate, Coonoor;"
- 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.

-sd/-

06/02/2020

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.

[*]for being mentioned and the other conditions imposed on the petitioner/accused in the order dated 06.02.2020 remain unaltered, as per the order of this court dated 18/02/2020 made in crl MP.NO.1619/2020 IN CRL.RC.NO.223 OF 2020.

TO

1 THE JUDICIAL MAGISTRATE,
FAST TRACK , COONOOR

2 THE SESSIONS JUDGE
MAGALIR NEETHIMANDRAM[FMTC] COURT,
UTHAGAMANDALAM AT NILGIRIS

3 THE CHIEF JUDICIAL MAGISTRATE
NILAGIRIS[FOR INFORMATION]

4 THE OFFICER IN CHARGE
SUB-JAIL, COONOOR

5 THE PUBLIC PROSECUTOR
THE NILGRIS DISTRICT

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS

+1 C.C. to M/S.J.R.PRABHAKARN Advocate on payment of necessary charges SR.NO. 3216

Order

in
CRL MP.1619/2020

IN CRL.RC.NO.223 OF 2020

Date :06/02/2020

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RD 07/02/2020

RD 18/02/2020

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