

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Seventh day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION NO.1594 OF 2020

IN CRL.RC.NO.219 OF 2020

SHEELA THOMAS

[PETITIONER / APPELLANT / ACCUSED]

Vs

MOLLY JOSEPH

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.219 OF 2020 on the file of the High Court, the High Court will be pleased to suspending the sentences of imprisonment inflicted upon me herein in C.C.No.58 of 2011 vide the judgment of conviction dated 30.10.2018 passed by the learned Metropolitan Magistrate Fast Track-II, Egmore at Allikulam confirmed by the learned XVIII Additional Sessions Judge, at Chennai in CRL.A.NO.617 of 2018 dated 16.10.2019, in CRL.RC.NO.219 OF 2020 [IN CRL.MP.NO.1594 OF 2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.219 OF 2020 on the file of the High Court and upon hearing the arguments of MR.HAJA NAZIRUDEEN SENIOR COUNSEL FOR M/S.R.KARTHIK, Advocate for the petitioner, the court made the following order:-

The petitioner herein is an accused in C.C.No.58 of 2011 on the file of the learned Metropolitan Magistrate, Fast Track Court No.2, Egmore at Allikulam, Chennai and by judgment dated 30.10.2018, she was convicted for an offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for one year and to pay a sum of Rs.44,00,000/- as compensation to the complainant within one month, in default, the petitioner shall undergo simple imprisonment for a further period of three months. Aggrieved over the same, the petitioner preferred a Criminal Appeal before the learned XVIII Additional Sessions Judge, Chennai, in Crl.A.No.617/2018. By judgment dated 16.10.2019, the Appellate Court confirmed the conviction and sentence of the trial Court thereby dismissing the appeal. 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 Senior Counsel for the Petitioner, the blank cheques which were received by the complainant from the husband of the petitioner in connection with some other transaction, after his death, were subsequently filled up and therefore, that will not constitute a legally enforceable debt by the petitioner to the complainant. The learned Senior 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 Senior 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 relief of suspension of sentence and bail are granted, on the following conditions:-

- a) The Petitioner/Accused shall deposit Rs.5,00,000/- (Rupees Five Lakhs Only) before the Trial Court, within six 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 learned Metropolitan Magistrate, Fast Track Court No.2, Egmore at Allikulam, Chennai;
- 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 06.03.2020 for reporting compliance.

-sd/-
07/02/2020

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 XVIII ADDITIONAL SESSIONS
JUDGE, CHENNAI.

2 THE METROPOLITAN MAGISTRATE,
FAST TRACK COURT NO.2,
EGMORE, ALLIKULAM, CHENNAI.

3 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

+2C.C. to M/S.R.KARTHIK Advocate on payment of necessary
charges SR NO.2467

Order

in
CRL MP.1594/2020
in
CRL.RC.219/2020

Date :07/02/2020

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

MK:26/02/2020