

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.M.P.No.1693 of 2020
in CrI.RC.No.234 of 2020

Rajaganesan

.. Petitioner

/versus/

Murali

.. Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 397 (1) of Cr.P.C., praying to suspend the sentence imposed on the petitioner in CrI.A.No.280 of 2017 dated 31.10.2019 on the file of the passed by the I Additional District and Sessions Judge, Erode confirming the order made in S.T.C.No.199 of 2016 dated 05.10.2017 on the file of the Judicial Magistrate, Fast Track Judge No.I, Erode.

For Petitioner : Mr.T.Ganesan

O R D E R

The Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner in judgment dated 31.10.2019 made in CrI.A.No.280 of 2017 on the file of the I Additional District and Sessions Judge, Erode, confirming the judgment of conviction dated 05.10.2017 made in S.T.C.No.199 of 2016 on the file of the Judicial Magistrate, Fast Track Judge No.I, Erode and enlarge her on bail, pending disposal of the above CrI.R.C.

2.The petitioner is an accused in a private complaint filed by the respondent for offence under Section 138 of the Negotiable Instrument Act in S.T.C.No.199 of 2013 on the file of the Judicial Magistrate, Fast Track Judge No.I, Erode

3.The gist of the case is that the respondent/complainant had lodged a complaint under Section 138 of the Negotiable Instrument Act, alleging that on 20.03.2016 the petitioner/accused approached the respondent and borrowed a sum of Rs.5,00,000/- for his urgent expenses and in order to discharge the said liability, the petitioner issued post dated cheque for Rs.5,00,000/- cheque bearing No.000030 for Rs.5,00,000/- dated 20.04.2016 drawn on HDFC Bank, Sathy Road, Erode-3. When the respondent presented the said cheque for collection, the same was dishonoured with a bank

memo "payment stopped by a drawer". On 04.05.2016 the respondent issued registered legal notice to the petitioner calling upon him to pay the cheque amount of Rs.5,00,000/- within 15 days. The petitioner purposely evaded the notice and the notice as not claimed. The petitioner had not chosen to repay the said amount. Hence, the complaint was registered.

4.The learned counsel for the petitioner would submit that the cheque was not issued in discharge for liability. The cheque was issued only for a security purpose. The respondent in his cross examination accepted that he is running a unregistered construction Company in the name of Kristal Promoters. The respondent accepts his signature in Ex.D1, which is the agreement for construction of the house for the petitioner. The respondent also accepted that he has not construct house as per the agreement. The respondent started to construct the house for the petitioner and without finishing the work, the respondent did deficiency in service. Therefore the petitioner stopped the payment upon the cheque. The Courts below failed to consider these aspects and hence, prays for grant of bail to the petitioner.

5.Considering the submission made by the learned counsel for the petitioner, this Court is inclined to suspend the sentence on condition that the petitioner is directed to deposit further sum of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) to the credit of S.T.C.No.199 of 2016 before the Judicial Magistrate, Fast Track Judge No.I, Erode, on or before 19.01.2021 and on such deposit, the petitioner is directed to be enlarged on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate, Fast Track Judge No.I, Erode, within a period of 7 days from 19.01.2021 and on further condition that the petitioner shall appear before the said Court once in three months at 10.30 a.m. till the disposal of the revision. If the petitioner fails to deposit the amount of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) by 19.01.2021, the order would stand cancelled automatically.

-sd/-

21/12/2020

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 1st ADDITIONAL DISTRICT AND SESSIONS JUDGE,
ERODE.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK JUDGE NO.I, ERODE.

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

C.C. to M/S. T.GANESAN Advocate on payment of necessary
charges

Order

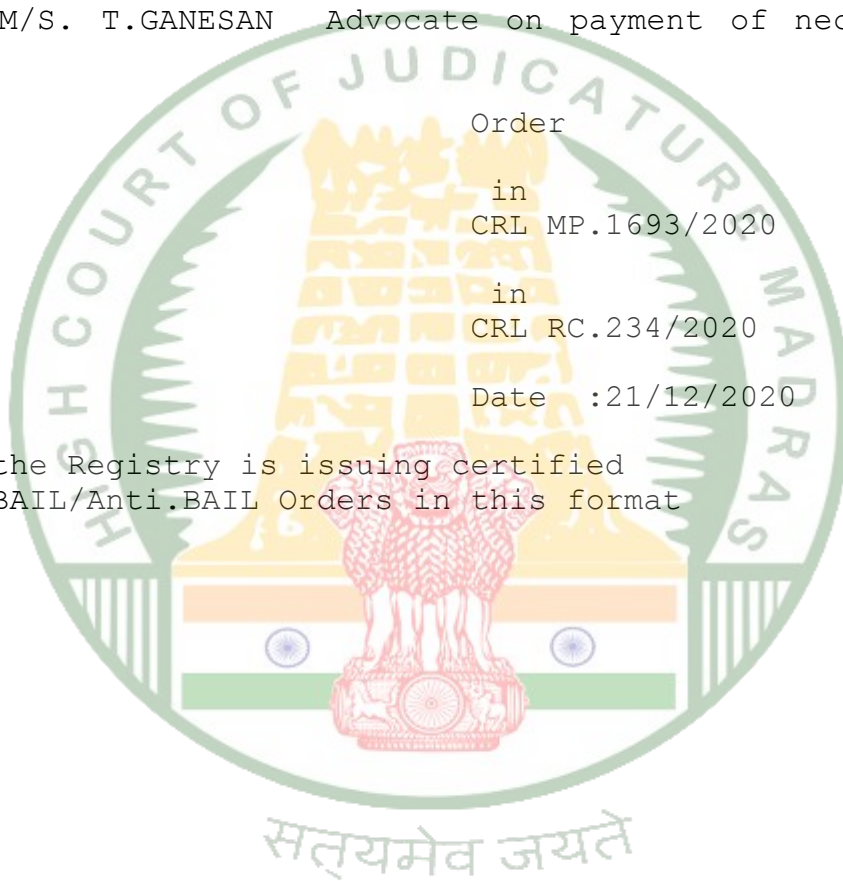
in
CRL MP.1693/2020

in
CRL RC.234/2020

Date :21/12/2020

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

MK:04/01/2021



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