

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twelfth day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.1733 of 2020

IN CRL.RC.NO.238 OF 2020

1 M/S. ATHITHYAS FOUNDATION TRUST, [PETITIONER]
REP.BY ITS CHAIRMAN C.KAILASANATHER,

2 C.KAILASANATHAR
CHAIRMAN M/S.ATHITHYAS FOUNDATION TRUST,

3 K.KARTHIKEYAN
SECRETARY M/S.ATHITHYAS FOUNDATION TRUST,

4 K.DEVI
TREASURER M/S.ATHITHYAS FOUNDATION TRUST,

Vs

A.R.PERIYASAMY [RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.238/2020 on the file of the High Court, the High Court will be pleased to suspend the sentence in the order made in Crl.A.No.138 of 2019 on the file of the Principal Sessions Judge, Erode dated 02.01.2020 confirming the conviction and sentence passed in STC No.580 of 2017 on the file of the Judicial Magistrate (Fast Track Court No.II) at Erode dated 24.04.2019 and to set aside the same. [CRL.MP.NO.1733/2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.238/2020 on the file of the High Court and upon hearing the arguments of M/S. V.BALAMURUGANE, Advocate for the petitioner, the court made the following order:-

The petitioners / accused faced trial in STC.No.580 of 2017 on the file of learned Judicial Magistrate, Fast Track Court II, Erode. Under judgment dated 24.04.2019, the trial Court found the petitioners guilty of the offence under Section 138 of the Negotiable Instruments Act, 1881 and convicted the petitioners/accused 2 to 4 and sentenced them to undergo one year simple imprisonment (each) for

the same and directed the petitioners to pay the cheque amount of Rs.3,00,000/- to the complainant as compensation within one month. Challenging the same, the petitioners preferred an appeal in CA.No.138 of 2019, before the learned Principal Sessions Judge, Erode, in which, the Appellate Court dismissed the Appeal and confirmed the judgment of the trial Court. Aggrieved over the same, the petitioners have filed the Criminal Revision Case along with the present Miscellaneous Petition seeking suspension of sentence, pending disposal of this Criminal Revision.

2. According to the learned counsel for the Petitioners, there are copious materials on record to prove that there is no legally enforceable debt and the petitioners have rebutted the presumption contemplated under Section 139 of the Negotiable Instruments Act. He further submitted that the petitioners have already paid the compensation sum of Rs.3,00,000/- to the counsel for the complainant, who in turn, received the cheque, but failed to issue receipt for the same. To substantiate the said submission, he filed an affidavit of one P.P.Duraisamy, learned counsel appearing for the petitioners/accused before the Appellate Court. He also 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) Each of the Petitioner/Accused 2 to 4 are ordered to be released on bail, on their 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 No.II), Erode;
- b) The Petitioners/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned 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 English Calendar Month, until the disposal of the revision case and if they are not able to appear before the Trial Court on any day, due to unavoidable circumstances, they 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 their absence, as directed by the Trial Court. Such an application shall not be entertained often.

-sd/-
12/02/2020

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-II, ERODE

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE[FOR INFORMATION]

3 THE PRINCIPAL SESSIONS
JUDGE, ERODE

+1 C.C. to M/S. V.BALAMURUGANE Advocate on payment of necessary charges SR.NO. 2825

Order

in
CRL MP.1733/2020

IN CRL.RC.NO.238 OF 2020

Date :12/02/2020

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format
RD 18/02/2020