

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.1828 of 2020

IN CRL.R.C.NO.185 of 2020

C.MATHANKUMAR

[PETITIONER]

Vs

P.VENKATACHALAPATHY

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence imposed on the petitioner in C.C.No.107/2017 (on the file of learned Judicial Magistrate (Fast Track Level) Kallakurichi) and conformed of the learned III Additional Sessions Judge, Villupuram in Crl.A.No.78 of 2018.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.R.VIVEKANANTHAN, Advocate for the petitioner, the court made the following order:-

By judgement, dated 12.09.2018 passed by the learned Judicial Magistrate (Fast Track Level), Kallakurichi, in C.C.No.107 of 2017, the petitioner (M/s. Yoga Traders, Rep. By its Proprietor, C.Mathankumar) was convicted for the offence under Section 138 r/w 142 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.17,63,730/- as compensation to the complainant within a period of three months, failing which, the petitioner shall undergo simple imprisonment for a further period of three months. Challenging the said conviction and sentence, the petitioner has preferred an appeal in Crl. Appeal No.78 of 2018 before the learned III Additional Sessions Judge, Villupuram @ Kallakurichi, in which, the appellate court has confirmed the judgement of the trial court. Aggrieved over the same, the petitioner has filed the present Criminal Revision Case, along with the Miscellaneous Petition seeking suspension of sentence.

2. According to the learned counsel for the Petitioner, the statutory deposit of 20% of the cheque amount, as per the new amendment, has already been paid by the petitioner; the complaint by the respondent against the petitioner is not maintainable, since the petitioner is a sole propriety concern; 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 having regard to the submissions made by 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.3,00,000/- (Rupees Three Lakhs Only) before the Trial Court, within four 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, which shall be renewable periodically. 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 Judicial Magistrate (Fast Track Level) Kallakurichi;
- 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 Proprietor of the Petitioner/Accused shall appear before the Trial Court at 10.30a.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.

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/-
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 LEVEL), KALLAKURICHI.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM. [FOR INFORMATION]

3 THE III ADDITIONAL SESSIONS JUDGE,
VILLUPURAM @ KALLAKURICHI.

+1 C.C. to M/S.R.VIVEKANANTHAN Advocate on payment of necessary charges SR.NO.2756

Order

in
CRL MP.1828/2020

in
CRL.R.C.NO.185/2020

Date :12/02/2020

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TA-13/02/2020