

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Seventeenth day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.1936 of 2020

IN CRL.RC.NO.264 OF 2020

K.S.K.RAMESH

[PETITIONER / APPELLANT /
ACCUSED]

Vs

M.KANNAN

[RESPONDENT / RESPONDENT /
COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.264/2020 on the file of the High Court, the High Court will be pleased to suspend the sentence and conviction passed by the Fast Track Court, Judicial Magistrate Level, Kallakurichi, in CC.No.36/2013 dated 22.01.2014 modified by the I Additional District and Sessions Judge, Tindivanam in C.A.No.3/2014 dated 31.01.2020 pending disposal of the above Crl.RC.No.264/2020.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.264/2020 on the file of the High Court and upon hearing the arguments of M/S.UM.RAVICHANDRAN, Advocate for the petitioner the court made the following order:-

By judgement, dated 22.01.2014 passed by the Judicial Magistrate, Fast Track Court (Magisterial Level), Kallakurichi, in C.C.No.36 of 2013, the petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act and was sentenced to undergo simple imprisonment for a period of two years and further directed to pay compensation of Rs.5,00,000/-, in addition to Rs.2,50,000/-, to the complainant within a period of one month. Challenging the said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.3 of 2014 before the learned I Additional District and Sessions Court, Tindivanam, in which, the conviction and sentence passed by the trial court was modified to the effect that the petitioner / accused shall undergo three months Simple Imprisonment and to pay the compensation amount of Rs.5,50,000/- to the complainant within one month from the date of judgement. Aggrieved over the same, the petitioner filed the present Criminal Revision Case, along with this petition seeking suspension of sentence, pending disposal of this Criminal Revision.

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. The learned 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 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 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 learned Judicial Magistrate, Fast Track Court (Magistrate Level), Kallakurichi, 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 banks. The disbursement 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 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, each for a like sum to the satisfaction of the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Kallakurichi;
- d) The Petitioner/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.
- 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.

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/-
17/02/2020

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 I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, TINDIVANAM.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT (MAGISTERIAL LEVEL),
KALLAKURICHI.

3 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION]

+1 C.C. to M/S.UM.RAVICHANDRAN Advocate on payment of necessary charges SR.No.3031

Order
in

CRL MP.1936/2020

in
CRL.RC.264/2020

Date :17/02/2020

From 7.2.2001 the Registry is issuing certified
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