

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twentieth day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.1938 of 2020

IN CRL.RC.NO.266 OF 2020

K.S.K.RAMESH

[PETITIONER]

Vs

RAGOTHAMAN

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.266/2020 on the file of the High Court, the High Court will be pleased to suspend the sentence and conviction passed by Fast Track Court, Judicial Magistrate court, Kallakurichi in CC.NO.37/2013 dated 22.01.2014 modified by the I Additional District and sessions Judge, Tindivanam in C.A.NO.4/2014 dated 31.01.2020 pending disposal of the above criminal revision petition.[CRL.MP.NO.1938/2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.266/2020 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 learned Judicial Magistrate (Fast Track Court), Kallakurichi, in C.C.No.37 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/- to the complainant, in addition to Rs.2,50,000/- for dragging the complainant to the court, within one month of the date of judgement. Challenging the said conviction, sentence and compensation amount, the petitioner has preferred an appeal in Crl.A.No.4 of 2014 before the learned I Additional District and Sessions Judge, Tindivanam, in which, the order of sentence and payment of compensation was modified to the effect that the petitioner was sentenced to undergo simple imprisonment for three months and directed 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 has filed the present Criminal Revision Case. He also filed the instant Miscellaneous 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 relief of suspension of sentence and bail are granted, on the following conditions:-

- a) The Petitioner/Accused shall deposit Rs.2,00,000/- (Rupees two lakhs only) before the learned Judicial Magistrate (Fast Track Court), 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 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 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 trial court;
- 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/-
20/02/2020

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 I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, TINDIVANAM

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT, KALLAKURICHI

3 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM[FOR INFORMATION]

+1C.C. to M/S.UM.RAVICHANDRAN Advocate on payment of necessary
charges SR.NO. 3356

Order

in
CRL MP.1938/2020

IN CRL.RC.NO.266 OF 2020

Date :20/02/2020

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RD 21/02/2020