

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Eighth day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.2654 of 2020

IN CRL.RC.NO.354 of 2020

VIMALA ROSELINE

[PETITIONER]

Vs

D.LALITHA

[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 in C.A.NO.157 of 2018 on the file of the learned II Additional District and Sessions Judge, Thiruvallur at Poonamallee filed in C.C.No.272 of 2016 on the file of the learned Judicial Magistrate, Fast Track Court, (Magistrate level), at Ambattu, pending disposal of the above Crl.RC.NO.354 of 2020.

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.K.DAKSHINAMOORTHY, Advocate for the petitioner, the court made the following order:-

The petitioner herein was tried for the offence under Section 138 of the Negotiable Instruments Act, in C.C.No.272 of 2016, before the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Ambattur and after full-fledged trial, by a judgement, dated 13.08.2018 the petitioner was acquitted. Aggrieved over which, the complainant / respondent herein has filed Criminal Appeal No.157 of 2018 before the learned II Additional District and Sessions Judge, Tiruvallur at Poonamallee. The appellate court, by way of a judgement, dated 03.01.2020, found the petitioner guilty under Section 138 of the Negotiable Instruments Act and convicted her for the same and sentenced her to undergo simple imprisonment for a period of six months and further directed to pay a sum of Rs.6,00,000/- as compensation to the complainant, in default to undergo Simple Imprisonment for three weeks and thereby, allowed the appeal, by setting aside the judgement of the trial court. Aggrieved over the same, the petitioner has filed the present Criminal Revision

Case, along with the instant Criminal Miscellaneous Petition seeking suspension of sentence, pending disposal of this Criminal Revision Case.

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. He 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 reliefs of suspension of sentence and bail are granted, on the following conditions:-

- a) The petitioner shall deposit a sum of Rs.2,00,000/- (Rupees two lakhs only) in C.C.No.272 of 2016 before the Trial Court within a period of 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 separate fixed deposit account in any one of the nationalized banks. 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 learned Judicial Magistrate, Fast Track Court (Magisterial Level), Ambattur;
- 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 she is not able to appear before the Trial Court on any day, due to unavoidable circumstances, she 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 her

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, as aforesaid, it is open to the Trial Court to commit the Petitioner / Accused into custody for undergoing the sentence.

-sd/-
28/02/2020

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
(MAGISTERIAL LEVEL), AMBATTUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE II ADDITIONAL DISTRICT AND SESSIONS
JUDGE, TIRUVALLUR AT POONAMALLEE.

C.C. to M/S.K.DAKSHINAMOORTHY Advocate on payment of necessary charges

Order

in
CRL MP.2654/2020

in
CRL.RC.NO.354/2020

Date :28/02/2020

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

TA-04/03/2020