

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Seventh day of February Two Thousand Twenty
PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION NO.2573 OF 2020

IN CRL.RC.NO.339 OF 2020

LATHA

[PETITIONER / REVISION PETITIONER
... RESPONDENT / ACCUSED]

Vs

K.A.LETHA

[RESPONDENT / APPELLANT /
COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.339 OF 2020 on the file of the High Court, the High Court will be pleased to suspend the sentence of conviction of the petitioner/accused passed by the III Additional District and Sessions Judge, Tiruvallur at Poonamallee on 21.01.2020 in Crl.A.No.20/2019 and restore the order dated 18.12.2018 passed by the learned Judicial Magistrate, Fast Track Court Magisterial Level II, Poonamallee in S.T.C.NO.86 of 2016 pending disposal of the above CRL.RC.NO.339 OF 2020 [IN CRL.MP.NO.2573 OF 2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.339 OF 2020 on the file of the High Court and upon hearing the arguments of M/S.M.KEMPRAJ, Advocate for the petitioner, the court made the following order:-

By judgment, dated 18.12.2018 passed by the learned Judicial Magistrate, Fast Track Court, (Magisterial Level No.II), Poonamallee, Thiruvallur District, in S.T.C.No.86 of 2016, the petitioner was acquitted for the offence under Section 138 of the Negotiable Instruments Act. Challenging the said acquittal, the respondent preferred an appeal in Crl.A.No.20 of 2019 before the learned Additional District and Sessions Judge, Poonamallee. The said appeal was allowed by setting aside the order of acquittal passed by the trial Court and the petitioner was convicted under Section 138 of Negotiable Instrument Act and was sentenced to undergo six months simple imprisonment and was directed to pay a sum of Rs.5,40,000/- as compensation to the complainant within two months in default to undergo further period of two months simple imprisonment. Aggrieved over the same, the petitioner has filed the Criminal Revision Case along with the present Miscellaneous Petition seeking suspension of sentence.

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

- a) The Petitioner/Accused shall deposit a sum of Rs.1,00,000/- (Rupees One 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, renewable thereafter periodically. 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 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 III Additional District and Sessions Judge, Thiruvallur at Poonamallee.
- 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 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 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.

f) On the failure of the Petitioner/Accused to comply with the aforesaid conditions, it is open to the Trial Court to commit the Petitioner/ Accused into custody for undergoing the sentence.

-sd/-
27/02/2020

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 III ADDITIONAL DISTRICT
AND SESSIONS JUDGE,
TIRUVALLUR, POONAMALLEE.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT, (MAGISTERIAL LEVEL NO.I),
POONAMALLEE, THIRUVALLUR DISTRICT.

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

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

सत्यमेव जयते Order

in
CRL MP.2573/2020
in
CRL RC.339/2020

Date :27/02/2020

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MK:04/03/2020