

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.2582 of 2020

IN CRL.R.C.NO.341 of 2020

BALU

[PETITIONER/APELLANT/ACCUSED]

Vs

ELUMALAI

[RESPONDENT/COMPLAINANT]

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 in C.C.No.108/2011 on the file of the Judicial Magistrate Fast Track Court, Tiruvannamalai, Tiruvannamalai District Dated 30th July 2012 and confirmed the judgment in C.A.No.37 of 2012 in the file of the Principal Sessions Judge, Tiruvannamalai, Tiruvannamalai District dated 22nd January 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.S.G.RAMESH, Advocate for the petitioner, the court made the following order:-

By judgment, dated 30.07.2012 passed by the learned Judicial Magistrate, Fast Track Court, Thiruvannamalai, in C.C.No.108 of 2012, 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 six months and further directed to pay compensation of Rs.2,51,250/- to the complainant within a period of two months. Challenging the said conviction and sentence, the petitioner preferred an appeal in Crl.A.No.37 of 2012 before the learned Principal District and Sessions Judge, Thiruvannamalai, in which, the Appellate Court has dismissed the Appeal and confirmed the judgement of the trial court. Aggrieved over the same, the petitioner has filed the Criminal Revision Case along with this 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, 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 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, Tiruvannamalai.
- 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 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, to comply with any of 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 JUDICIAL MAGISTRATE,
FAST TRACK COURT, THIRUVANNAMALAI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI. [FOR INFORMATION]

3 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
THIRUVANNAMALAI.

+1 C.C. to M/S. S.G.RAMESH Advocate on payment of necessary
charges SR.NO.3970

Order
in
CRL MP.2582/2020
in
CRL.R.C.NO.341/2020
Date :27/02/2020

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

TA-05/03/2020