

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

Crl.MP.Nos.3832 & 3833 of 2020

in

Crl.RC.No.482 of 2020

AYYAMPERUMAL

... PETITIONER

IN BOTH THE PETITIONS

VS.

SELVARAJ

... RESPONDENT

IN BOTH THE PETITIONS

PRAYER in Crl.MP.No.3832 of 2020: Criminal Miscellaneous Petition has been filed under Section of Cr.P.C 397 r/w 401 of Cr.P.C to suspend the sentence of one year simple imprisonment and fine of Rs.8,50,000/- imposed in judgment dated 22.01.2020 passed in C.C.No.56/2017 by the learned Judicial Magistrate, (Fastrack) Kallakurichi and confirmed the same in judgment dated 31.01.2020 passed in C.A.No.12/2019 by the learned III Additional Sessions Judge, Villupuram at Kallakurichi, till disposal of the main Criminal Revision Petition.

PRAYER in Crl.MP.No.3833 of 2020: Criminal Miscellaneous Petition has been filed under Section of Cr.P.C 397 r/w 401 of Cr.P.C to exempt the petitioner to surrender before the trial court to present the criminal revision case against the judgment dated 22.01.2019, passed in C.C.No.56/2017 by the learned Judicial Magistrate, Kallakurichi and confirmed the same by a judgment dated 31.01.2020 passed in C.A.No.12/2019 by the learned III-Additional Sessions Judge, Villupuram at Kallakurichi, till disposal of the main criminal revision petition.

FOR PETITIONER : M/S.S.RAMAJAYAM

ORDER

This Criminal Revision Petition has been filed by the accused against the judgment passed by the III Additional Sessions Judge, Kallakurichi, in C.A.No.12 of 2019 dated 31.01.2020 confirming the judgment of conviction and sentence passed by the Judicial Magistrate (Fast Track Court Level), Kallakurichi in C.C.No.56 of 2017 dated 22.01.2019.

2. The respondent herein has filed a private complaint under Section 138 of the Negotiable Instruments Act alleging that the petitioner herein had borrowed a sum of Rs.8,50,000/- and issued a cheque to discharge the said debt and when the said cheque was presented in the bank, the same was returned on the ground "insufficient funds" and thereafter, he issued statutory notice and filed a private complaint,

3. The learned Judicial Magistrate after conducting trial, found the accused guilty under Section 138 of the Negotiable Instruments Act and convicted and sentenced him to undergo one year simple imprisonment and to pay a fine of Rs.8,50,000/-, in default, to undergo three months simple imprisonment and also to pay the fine amount as compensation to the complainant/respondent. Aggrieved by the same, the accused has filed an appeal in C.A.No.12 of 2019 on the file of the 3rd Additional Sessions Judge, Kallakurichi by the judgment dated 31.01.2020 and dismissed the said appeal and thereby confirmed the judgment of conviction and sentence passed by the trial court. Feeling aggrieved, the petitioner has filed the present criminal revision petition.

4. The learned counsel for the petitioner/accused has submitted that the petitioner has not borrowed any amount from the respondent; on the contrary, he borrowed a sum of Rs.5,90,000/- from the family members of the respondent and also paid interest, but, subsequently, they insisted the petitioner to issue a cheque and accordingly he issued the cheque in favour of the complainant for Rs.8,50,000/-. He further submitted that the petitioner is not liable to pay such a huge amount and he borrowed only Rs.5,90,000/- and for that also, he paid huge interest. He further submitted that the petitioner is having false defence and he is having a chance of success in the criminal revision. He further submitted that already the petitioner as per the direction of the appellate court has deposited 20% of the cheque amount i.e., Rs.1,70,000/- before the trial court and he further requested to impose some reasonable conditions.

5. Considering the aforesaid submissions,

(i) The petitioner shall surrender before the trial court within a week from the date of receipt of a copy of this order;

(ii) the petitioner is directed to deposit another 20% of the cheque amount before the trial court on or before 17.06.2020 and on such deposit, the sentence passed by the trial court and confirmed by the appellate court is suspended and that

(iii) the petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties for a like sum each, and that

(iv) The petitioner shall appear before the trial on the 1st working day of every month until disposal of the Criminal Revision Petition.

6. In the meanwhile, issue notice to the respondent returnable by 17.06.2020. Private Notice is also permitted. The Registry is directed to call for the records from both the courts below and post the matter on 17.06.2020.

-sd/-
01/06/2020

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 SESSIONS JUDGE,
VILLUPURAM AT KALLAKURICHI.

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

3 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM DISTRICT [FOR INFORMATION]

4 THE SECTION OFFICER
CRIMINAL SECTION,
HIGH COURT, MADRAS.

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

Order

in
CRL MP.Nos.3832 & 3833/2020

in
CRL RC.482/2020

Date :01/06/2020

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CS 02/06/2020