

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15..05..2020

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.M.P.No.3943 of 2020

in

Crl.R.C.No.487 of 2020

R.Karuppannan

... Petitioner

-Versus-

R.Rajamanickam

... Respondent

Petition under Section 397(1) r/w 439 of Cr.P.C. praying to suspend the sentence of imprisonment dated 30.09.2019 imposed in S.T.C.No.349 of 2017 by the learned Judicial Magistrate, Fast Track Court, Thiruchengode, which was confirmed by the judgement dated 13.03.2020 in C.A.No.56 of 2019 by the learned Sessions Judge, Namakkal, Namakkal District and enlarge the petitioner on bail pending disposal of the criminal revision petition.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.K.Madhan, GA (Crl.Side)

ORDER

Seeking suspension of sentence of imprisonment imposed in S.T.C.No.349 of 2017 by the learned Judicial Magistrate, Fast Track Court, Thiruchengode, and enlarge him on bail pending disposal of the criminal revision petition, the petitioner, has come forward with this miscellaneous petition.

2. The learned counsel for the petitioner submitted that the complainant had not discharged his initial burden and he had not proved the execution of the cheque in question by the petitioner herein. Further, the standard of proof in discharging the burden in terms of Section 138 of the NI Act being preponderance of probability, the trial court ought to have considered the circumstances relied on by the petitioner herein to raise the presumption. The appellate court also had failed to appreciate the facts of the case and had simply confirmed the order of the trial court. He further submitted that the petitioner was arrested on 12.03.2020 and he has been committed to the prison to serve the sentence of imprisonment.

3. Considering the submissions made by the learned counsel for the petitioner and having regard to the fact that there are arguable

points in the revision case and the final hearing of the revision may take time as there are several other old revision cases pending for final hearing, this court is inclined to suspend the sentence of imprisonment and enlarge the petitioner on bail, however on conditions.

In the result, this miscellaneous petition is allowed and the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on his executing an own bond for a sum of Rs.10,000/- to the satisfaction of the Superintendent of Central Prison, Coimbatore. The petitioner shall report before the learned Judicial Magistrate, Fast Track Court, Thiruchengode, at 10.30 a.m. on the 1st working day of every English calendar month from January, 2021 onwards, until further orders.

-sd/-

15/05/2020

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 SESSIONS JUDGE,
NAMAKKAL, NAMAKKAL DISTRICT.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT,
THIRUCHENGODE, NAMAKKAL DISTRICT.

3 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

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

Order

in

CRL MP.3943/2020

in

CRL.RC.487/2020

Date :15/05/2020

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CS 14/12/2020