

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Seventh day of October Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION No.5799 of 2020

IN CRL RC.782/2020

1 GAYATHRI [PETITIONERS]
2 M/S.SREE VAARI ENTERPRISES
REP.BY ITS MEMBER GAYATRI

Vs

S.THAMEEM ANSARI [RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.782/2020 on the file of the High Court, the High Court will be pleased to suspend the sentence of one year simple imprisonment made under the Judgment dated 06.07.2019 in Crl.A.No.6 of 2017 on the file of Additional District Sessions cum Fast Track Court, Kanchipuram, confirming the conviction and sentence in the Judgment dated 31/01/2017 made in STC.No.589 of 2015, on the file of District Munsif Cum Judicial Magistrate, Uthiramerur, pending disposal of the above mentioned Crl.R.C.No.782 of 2020.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.782/2020 on the file of the High Court and upon hearing the arguments of M/S. G.A.THIYAGARAJAN, Advocate for the petitioner and of MR.J.RAVINDRAN on behalf of the Respondent the court made the following order:-

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the first petitioner by the judgment and order dated 06.07.2019 passed in Crl.A.No.6 of 2017 on the file of the Additional District and Sessions Court, (Fast Track Court), Kanchipuram, confirming the judgment and order dated 31.01.2017 passed in S.T.C.No.589 of 2015 on the file of the District Munsif-cum-Judicial Magistrate Court, Uthiramerur, pending disposal of the present criminal revision petition.

2. For the sake of convenience, the first petitioner and the respondent will be referred to as accused and complainant, respectively.

3. The complainant initiated a prosecution in S.T.C.No.589 of 2015 under Section 138 of the Negotiable Instruments Act, 1881 (for brevity "the NI Act"), against the accused, before the District Munsif-cum-Judicial Magistrate Court, Uthiramerur, for the dishonour of the cheque dated 29.12.2014 bearing no.326265 for a sum of Rs.10,00,000/-. The trial Court, by judgment and order dated 31.01.2017, convicted the accused of the offence under Section 138 of the NI Act and sentenced her to undergo one year simple imprisonment.

4. The appeal in C.A.No.6 of 2017 filed by the accused was dismissed by the Additional District and Sessions Court, (Fast Track Court), Kanchipuram, on 06.07.2019.

5. Challenging the concurrent findings of fact arrived at by the Courts below, the accused has preferred the present criminal revision petition with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

6. Heard Mr.G.A.Thiyagarajan, learned counsel for the accused and Mr.J.Ravindran, learned counsel for the complainant.

7. Under normal circumstances, this Court would direct the accused either to surrender or deposit the full cheque amount in the trial Court. However, in this case, the accused had adduced defence evidence and had marked three exhibits, in support of her case that the cheques were obtained in the police station. The complainant has not produced any document like promissory note, etc., to corroborate the alleged debt of Rs.10,00,000/-. The complainant has not even stated in the complaint that as to the date on which the huge sum of Rs.10,00,000/- was given as hand loan to the accused.

8. The impugned cheque in this case is dated 29.12.2014. It is seen that another person by name Iyyanathan filed S.T.C.No.590 of 2015 against the accused herein before the same Court, in respect of dishonour of cheque dated 29.12.2014 bearing no.157325 for a sum of Rs.10,00,000/-. In that case also, the accused has been convicted by the trial Court, which has been confirmed by the appellate Court. Even in that case, Iyyanathan had not marked any exhibit in support of the alleged debt. All these create reasonable doubt in the minds of this Court with regard to the case of the complainant.

9. Taking into consideration the facts and circumstances of the case, this Court is of the opinion that interests of justice will be served if suspension of sentence and bail is granted to the accused.

10. Accordingly, the relief of suspension of sentence and bail is granted to the accused on the following conditions:

(i) The accused shall deposit a sum of Rs.2,00,000/- before the District Munsif-cum-Judicial Magistrate Court, Uthiramerur, to the credit of S.T.C.No.589 of 2015, within a period of four weeks from the date of receipt of a copy of this order;

(ii) On such deposit, the trial Court shall re-deposit the amount in a fixed deposit account in any nationalized bank so that the amount with interest can be disbursed either to the complainant or to the accused, depending upon the outcome of this revision petition;

(iii) After such deposit, the accused shall surrender before the District Munsif-cum-Judicial Magistrate Court, Uthiramerur;

(iv) On such surrender, the accused shall be released on bail on she executing a bond for a sum of Rs.10,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the District Munsif-cum-Judicial Magistrate Court, Uthiramerur;

(v) The accused and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and

(vi) The accused shall appear before the trial Court on the first working day of every month until the disposal of the revision petition and if she is not able to appear before the trial Court on any day, she shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of her absence, as directed by the trial Court;

-sd/-

07/10/2020

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 ADDITIONAL DISTRICT AND
SESSIONS JUDGE, (FAST TRACK COURT)
KANCHIPURAM

2 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, UTHIRAMERUR

C.C. to M/S. G.A.THIYAGARAJAN Advocate on payment of necessary charges

C.C. to M/S. J.RAVINDRAN Advocate on payment of necessary charges
Sr.6684

Order

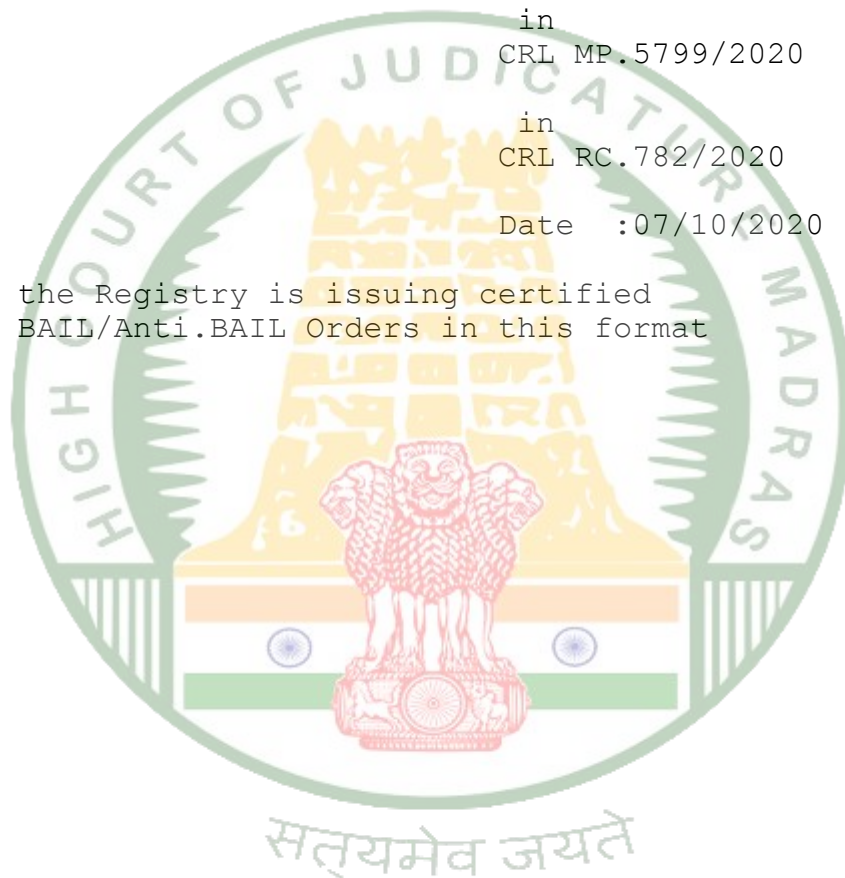
in
CRL MP.5799/2020

in
CRL RC.782/2020

Date :07/10/2020

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

RVR 07/10/2020



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