

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.M.P.Nos.5429 & 5430 of 2020

in Crl.R.C.No.768 of 2020

V.Jayabalan

.. Petitioner/Accused

Vs.

K.Roopathy Sudhakar

.. Respondent/Complainant

Prayer in Crl.M.P.No.5429 of 2020: Criminal Miscellaneous Petition filed under Section 397(1) Cr.P.C. to suspend the sentence and conviction passed by the IV Addl. District and Sessions Judge, Thiruvallur at Ponneri in C.A.No.57/2019 dated 21.02.2020, dismissing the appeal and confirming the order of the Judicial Magistrate, Thiruvottiyur, dated 15.03.2019 in S.T.C.No.311/2011, u/s.138 of the Negotiable Instruments Act, and enlarge the petitioner on bail, till the disposal of the revision.

Prayer in Crl.M.P.No.5430 of 2020: Criminal Miscellaneous Petition filed under Section 482 Cr.P.C. to give exemption for surrendering the petitioner before the Judicial Magistrate Court, Thiruvottiyur, in S.T.C.No.311/2011.

For Petitioner : Mr.R.Radha Pandian

O R D E R

This case is taken up through video conferencing.

2. While the petition in Crl.M.P.No.5429 of 2020 is filed to suspend the sentence and conviction imposed on the petitioner by the IV Additional District and Sessions Judge, Thiruvallur at Ponneri, vide judgment and order dated 21.02.2020 in Crl.A.No.57/2019, in and by which, confirming the order of the learned Judicial Magistrate, Thiruvottiyur, dated 15.03.2019 in S.T.C.No.311/2011, the petition in Crl.M.P.No.5430 of 2020 is filed to exempt the petitioner from surrendering before the Judicial Magistrate, Thiruvottiyur.

3. The petitioner, who was an accused in STC.No.311/2011 before the Judicial Magistrate, Thiruvottiyur, was convicted of the offence under Section 138 of the Negotiable Instruments Act, and sentenced to undergo rigorous imprisonment for a period of six months and further directed to pay a sum of Rs.3,00,000/- as compensation to the complainant u/s.357(3) Cr.P.C., instead, to undergo simple imprisonment for a period of one month.

4. The appeal in C.A.No.57 of 2019 filed by the petitioner was dismissed by the IV Additional District and Sessions Court, Thiruvallur @ Ponneri on 21.02.2020.

5. Challenging the concurrent findings of fact arrived at by the Courts below, the petitioner has filed the present revision petition along with the instant criminal miscellaneous petitions seeking suspension of sentence and bail and exemption from surrender, respectively.

6. Heard Mr.R.Radha Pandian, learned counsel for the petitioner and Mr.Rajapandian [Enrl.No.631/2009], learned Advocate, who undertakes to file vakalath for the respondent.

7. Pursuant to the order of this Court dated 14.09.2020 in CrI.MP.No.5430 of 2020 in CrI.RC.No.768 of 2020, the petitioner has deposited Rs.2,00,000/- to the credit of S.T.C.No.311/2011 on the file of the Judicial Magistrate Court, Thiruvottiyur. In such view of the matter, this Court is of the view that the petitioner is entitled to the reliefs of suspension of sentence and bail, and exemption from surrendering before the trial Court.

8. Accordingly, the reliefs of suspension of sentence and bail and exemption from surrendering before the trial Court are granted to the petitioner on the following conditions:

- (i) The petitioner shall surrender before the Judicial Magistrate Court, Thiruvottiyur within a period of two weeks from the date of receipt of a copy of this order.
- (ii) On his surrender, the petitioner shall be released on bail on he 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 Judicial Magistrate, Thiruvottiyur.
- (iii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Judicial Magistrate, Thiruvottiyur, may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and

- (iv) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he 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 his absence, as directed by the trial Court.

9. The trial Court is directed to deposit the sum of Rs.2 lakhs in a fixed deposit account in a Nationalised Bank, so that it accrues interest. The amount and the accrued interest shall be disbursed either to the complainant or the accused, depending upon the outcome of the main revision petition.

-sd/-

28/09/2020

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 IV ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THIRUVALLUR AT PONNERI.

2 THE JUDICIAL MAGISTRATE,
THIRUVOTTIYUR.

C.C. to M/S. R.RADHA PANDIAN Advocate on payment of necessary charges

WEB COPY

Order

in

CRL.MP.NOS.5429 & 5430 OF 2020

in

CRL.RC.NO.768/2020

Date :28/09/2020

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