

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2020

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.M.P. No.5378 of 2020 in Crl.R.C. No.761 of 2020

V.Suresh Babu

.... Petitioner

vs.

S. Chandrasekaran

.... Respondent

Criminal Miscellaneous Petition filed under Sections 397(1) Cr.P.C. seeking to suspend the sentence of imprisonment passed on 15.11.2019 by the I Additional District and Sessions Judge, Tiruvallur, Tiruvallur District in Crl.A. No.150 of 2018 modifying the judgment dated 16.08.2018 passed by the Judicial Magistrate (Fast Track Court) at Tiruvallur in S.T.C. No.87 of 2016, pending disposal of the criminal revision.

For petitioner : Mr. W.M. Abdul Majeed

ORDER

This is a petition seeking suspension of sentence.

2 Heard Mr. W.M. Abdul Majeed, learned counsel for the petitioner.

3 The petitioner/accused was tried and convicted in S.T.C. No.87 of 2016 on 16.08.2018 of the offence under Section 138 of the Negotiable Instruments Act, 1881, by the Judicial Magistrate (Fast Track Court), Tiruvallur, and was sentenced to undergo simple imprisonment for a period of one year and was directed to pay a compensation of Rs.13,20,000/- to the complainant, in default, to undergo simple imprisonment for a period of three months.

4 On appeal by the petitioner, the I Additional District and Sessions Court, Tiruvallur, in Crl.A. No.150 of 2018, on 15.11.2019, confirmed the conviction, but, modified the sentence by imposing a fine of Rs.12,20,000/-, in default to undergo simple imprisonment for a period of three months.

5 Challenging the orders passed by the two Courts below, the petitioner has preferred Crl.R.C. No.761 of 2020 along with the instant criminal miscellaneous petition seeking suspension of sentence.

6 The learned counsel for the petitioner submitted that the petitioner and the complainant are advocates, but, the complainant was an office bearer in the local Bar, whereas, the petitioner was from a different Bar and therefore, the petitioner could not

effectively defend himself in the trial, inasmuch as, the petitioner was not able to cross-examine the witnesses examined by the complainant.

7 This Court perused the judgments of the Courts below and observes that the petitioner had not cross-examined the witnesses produced by the complainant. Thus, prima facie, there appears to be miscarriage of justice.

Hence, the relief of suspension of sentence is granted to the petitioner on the following conditions:

- (i) The petitioner shall deposit a sum of Rs.2 lakhs to the credit of S.T.C. No.87 of 2016 before the trial Court within a period of two weeks from the date of receipt of a copy of this order and on such deposit, the Magistrate is directed to re-deposit the said amount in a fixed deposit in any one of the nationalised banks so that interest gets accrued and the said deposit can be disbursed either to the complainant or to the accused, depending upon the outcome of this criminal revision;
- (ii) the petitioner shall surrender before the trial Court within a period of two weeks from the date of receipt of a copy of this order and execute 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 trial Court;
- (iii) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Judicial Magistrate, (Fast Track Court), Tiruvallur, 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 further orders 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.

-sd/-

09/09/2020

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 I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, TIRUVALLUR
TIRUVALLUR DISTRICT

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT,
TIRUVALLUR

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.W.M.ABDUL MAJEED Advocate on payment of
necessary charges sr no.6174

Order

in
CRL MP.5378/2020

in Crl.R.C. No.761 of 2020

Date :09/09/2020

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RD 10/09/2020

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