

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.M.P.No.6204 of 2020

in

CRL.R.C.No.878 of 2020

- 1.Hayagriva Cargo Movers Pvt.Ltd.,
Fleet Owners and Transport Contractors,
Rep.by its Managing Director,
Tholiyar Manivannan
- 2.Tholiyar Manivannan,
Managing Director,
Hayagriva Cargo Movers Pvt.Ltd., Petitioner

Vs.

R.Selvarajan Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 397(1) of Criminal Procedure Code to suspend the sentence against the second petitioner/second appellant herein in C.A.No.442 of 2018 dated 25.06.2020 on the file of the III Additional District and Sessions Judge, Coimbatore and confirming the conviction and sentence imposed by the Judicial Magistrate Fast Track at Magisterial Level-I, Coimbatore, by its judgment dated 11.09.2018 made in C.C.No.339 of 2016 and enlarge the second petitioner/second appellant on bail.

For Petitioners : Mr.S.Panneerselvan

For Respondent : Mr.Rangarajan for M/s. R & P partners

WEB COPY
O R D E R

This Criminal Miscellaneous Petition has been filed to suspend the sentence against the second petitioner/second appellant herein in C.A.No.442 of 2018 dated 25.06.2020 on the file of the III Additional District and Sessions Judge, Coimbatore and confirming the conviction and sentence imposed by the Judicial Magistrate Fast Track at Magisterial Level-I, Coimbatore, by its judgment dated 11.09.2018 made in C.C.No.339 of 2016 and enlarge the second petitioner/second

2. The case of the prosecution is that the first petitioner/accused No.1 is a Private Limited Company, carrying business in Transport Viz., Fleet Owners and Transport Contractors. The accused No.2 is the Managing Director and the accused No.3 is the Director of the Company. The second petitioner/accused No.2 and the accused No.3, had approached the complainant on 10.04.2014 and borrowed a sum of Rs.15,00,000/- from the complainant for their urgent business commitment and executed a promissory note by agreeing to repay the same with interest @ 12% per annum. After receiving the amount, the accused failed to pay either principal or interest. Since the complainant demanded to pay the amount, the accused paid interest till April 2015 and issued cheque dated 14.05.2015 bearing No.256060 for Rs.15,00,000/- along with covering letter Ex.P4 dated 14.05.2015. As per the instructions of the accused, the complainant presented the cheque for collection on 15.05.2015 and it was returned for the reason "Insufficient Funds". Hence, the complainant sent a legal notice to the accused on 04.06.2015 and the same was returned by the postal authorities on 06.06.2015 with an endorsement "Intimation Given-Not Claimed". Thereafter, the accused had neither replied nor paid any amount. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the respondent has filed a private complaint in C.C.No.339 of 2016 against the petitioner/accused for the offence under Section 138 of Negotiable Instrument Act, which was allowed by the Trial Court on 11.09.2018 and convicted the second petitioner and sentenced to undergo six months simple imprisonment and the petitioners shall pay a sum of Rs.15,00,000/- as compensation to the respondent herein within a period of two months from the date of receipt of the Judgment, failing which, to undergo two months imprisonment. Aggrieved against the same, the petitioner herein filed an appeal before the learned III Additional District and Sessions Judge, Coimbatore which was dismissed by the Lower Appellate Court on 25.06.2020. Against which, the present petition has been filed. He would further submit that the Lower Court as well as the Lower Appellate Court failed to consider the evidence in a proper and perceptive manner and gave a wrong finding and convicted the petitioner. He would further submit that in compliance of the order of this Court dated 08.12.2020, he has produced the Demand Draft for a sum of Rs.5,00,000/- in favour of the respondent herein.

4. In view of the above submission, this Court is inclined to suspend the sentence imposed on the petitioner. Accordingly, the petitioner is directed to be enlarged on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate, Fast Track at Magisterial Level-I, Coimbatore, within a period of 15 days from the date of receipt of a copy of this Order and on further condition that the petitioner shall appear before the said Court once in three months at 10.30 a.m. from 2021 till the disposal of the revision.

5. Accordingly, the Criminal Miscellaneous Petition stands ordered.

-sd/-
22/12/2020

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 DISTRICT
AND SESSIONS JUDGE, COIMBATORE.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK AT MAGISTERIAL LEVEL-I,
COIMBATORE.

3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

4 THE OFFICER INCHARGE
MEDIATION CENTRE, COIMBATORE

5 THE ASSISTANT REGISTRAR,
TAMILNADU MEDIATION AND CONCILIATION CENTRE,
HIGH COURT, MADRAS.

+1 C.C. to MR.RANGARAJAN FOR M/S. R & P PARTNERS Advocate on
payment of necessary charges SR.No.8568

Order

in
CRL MP.6204/2020

in
CRL.RC.878/2020

Date :22/12/2020

WEB COPY

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
cs 07/01/2021

<https://hcservices.ecourts.gov.in/hcservices/>