

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.8185 of 2020

in

CRL.R.C.No.1176 of 2020

Sasikumar

.. Petitioner

/versus/

Natarajan

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 397(1) of Cr.P.C., praying to suspend the sentence imposed in Crl.A.No.90 of 2019 dated 26.08.2020 on the file of the learned Principal District and Sessions Judge, Namakkal by confirming the order passed in S.T.C.No.125 of 2015 dated 18.11.2019 by the learned Judicial Magistrate, Tiruchengode and grant bail to the petitioner.

For Petitioner :

Mr.B.Gopalakrishnan

O R D E R

The Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner in judgment dated 26.08.2020 made in Crl.Appeal No.90 of 2019 by the learned Principal District and Sessions Judge, Namakkal confirming the order dated 18.11.2019 made in S.T.C.No.125 of 2015 by the learned Judicial Magistrate, Tiruchengode and enlarge him on bail, pending disposal of the above Crl.R.C.

2.The petitioner is an accused in a private complaint filed by the respondent for offence under Section 138 of the Negotiable Instrument Act in S.T.C.No.125 of 2015 on the file of the learned Judicial Magistrate, Tiruchengode.

3.The gist of the case is that the respondent/complainant had lodged a complaint under Section 138 of the Negotiable Instrument Act, alleging that the respondent/complainant and the petitioner/accused were running a business in the name and style as Karikalan Plastic Industry. Subsequently a settlement was made between them and the petitioner admitted to pay a sum of Rs.4,00,000/- to the respondent and the respondent handedover the industry to the petitioner. The petitioner paid Rs.3,00,000/- to the respondent vide three cheques each for a sum of Rs.1,00,000/- and settled Rs.3,00,000/- For the balance amount of Rs.1,00,000/-, the petitioner had given a cheque bearing No.184114 dated 05.03.2015 drawn at Cananra Bank, Mallasamudram Branch in favour of the respondent. When the respondent presented the said cheque for

collection, the same was returned with an endorsement "Payment Stopped by Drawer" on 09.03.2015. Therefore, the respondent issued a legal notice dated 31.03.2015 to the petitioner and it was received by the petitioner on 07.04.2015. The petitioner caused reply notice on 16.04.2015 with false allegation and has not taken any steps to pay the amount. Hence, the complaint was registered.

4.The learned counsel for the petitioner would submit that both the Courts below failed to note that before the presentation of the cheque bearing No.184114 dated 05.03.2015 the petitioner issued a notice dated 17.02.2015 to the respondent and demanded to return back the cheque bearing No.184114 because the cheque amount was already paid. The Courts below failed to note that the evidence of D.W.2 was not taken into consideration and there was no discussion about D.W.2 in the judgment rendered by both the Courts. He would further submit that the Appellate Court passed a conditional order on 19.12.2019 and directed the petitioner to pay conditional deposit of 20% of the compensation amount before the Trial Court within 60 days. As per the order of the Appellate Court on 10.02.2020, the petitioner deposited the conditional amount of Rs.20,000/- to the credit of S.T.C.No.125 of 2015. Hence he prays for grant of bail to the petitioner.

5.Considering the submission made by the learned counsel for the petitioner, this Court is inclined to suspend the sentence on condition that the petitioner is directed to deposit further sum of Rs.30,000/- (Rupees Thirty Thousand Only) to the credit of S.T.C.No.125 of 2015 before the learned Judicial Magistrate, Tiruchengode on or before 10.01.2021 and on such deposit, 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 learned Judicial Magistrate, Tiruchengode within a period of 7 days from 10.01.2021 and on further condition that the petitioner shall appear before the said Court once in three months at 10.30 a.m. till the disposal of the revision. If the petitioner fails to deposit the amount of Rs.30,000/- (Rupees Thirty Thousand Only) by 10.01.2021, the order would stand cancelled automatically.

-sd/-

15/12/2020

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 JUDICIAL MAGISTRATE,
TIRUCHENGODE

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL (FOR INFORMATION)

3 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, NAMAKKAL

C.C. to M/S. B.GOPALAKRISHNAN Advocate on payment of necessary
charges Sr.8218

Order

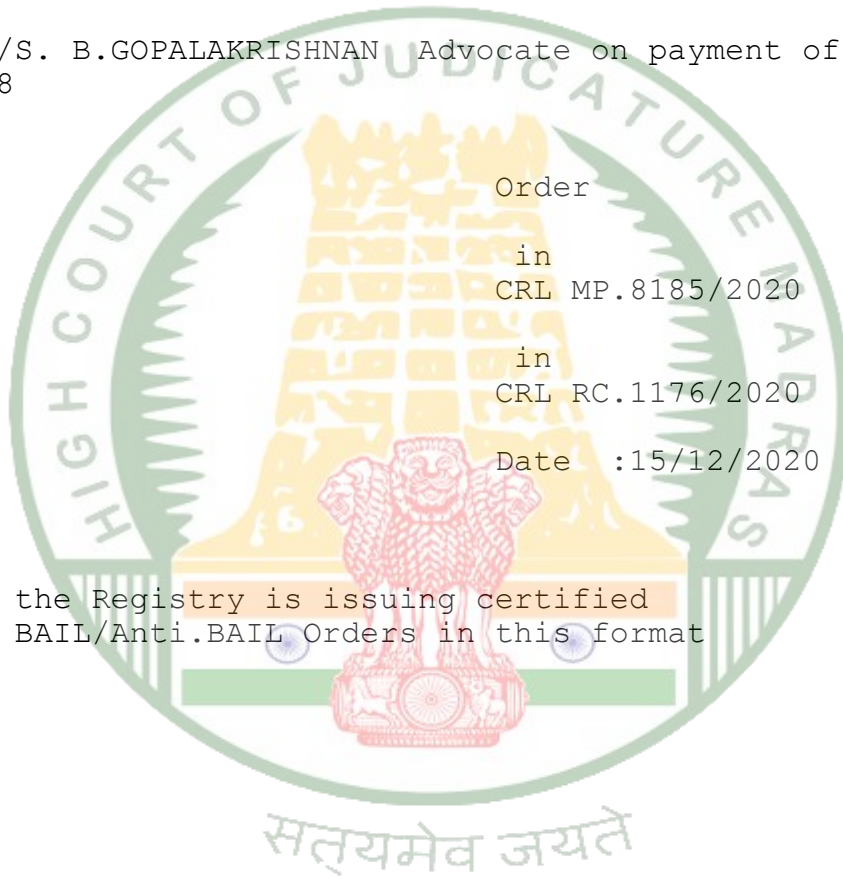
in
CRL MP.8185/2020

in
CRL RC.1176/2020

Date :15/12/2020

From 7.2.2001 the Registry is issuing certified
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RVR 18/12/2020



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