

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.6800 of 2020

in CRL.R.C.No.975 of 2020

Jagatheeswaran

.. Petitioner

/versus/

N.Eswaramoorthy (Deceased)
Substituted by his wife
E.Rathika Rani

.. Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 397(1) & 401 of Cr.P.C., praying to suspend the sentence/conviction made vide judgment dated 04.01.2020 made in C.A.No.47 of 2018 on the file of the III Additional District and Sessions Judge, Coimbatore, confirming the judgment of conviction dated 21.12.2017 made in C.C.No.141 of 2013 on the file of the Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore, the petitioner/accused found guilty under Section 138 of the Negotiable Instruments Act, (1 year simple imprisonment and compensation of Rs.15,00,000 payable to the respondent/complainant within one month), pending disposal of the above Criminal Revision Case.

For Petitioner : Mr.B.R.Shankaralingam

ORDER

The Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner in judgment dated 04.01.2020 made in C.A.No.47 of 2018 on the file of the III Additional District and Sessions Judge, Coimbatore, confirming the judgment of conviction dated 21.12.2017 made in C.C.No.141 of 2013 on the file of the Judicial Magistrate, Fast Track Court at Magisterial Level-II and enlarge her 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 C.C.No.141 of 2013 on the file of the Judicial Magistrate, Fast Track Court at Magisterial Level-II.

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 petitioner/accused borrowed a sum of Rs.15,00,000/- from the complainant for the purpose of his business on 25.02.2010 and agreed to repay the same on demand. After repeated

demands the petitioner issued a cheque dated 13.07.2010 drawn on Indian Overseas Bank for Rs.15,00,000/- bearing No.890801. The respondent presented the cheque for collection and the same was dishonoured for the reason "Exceeds arrangement" vide memo dated 24.07.2010. The cheque was again presented for encashment on 02.09.2010, again the same was dishonoured for the reason "Funds Insufficient". The respondent issued a legal notice dated 13.09.2010 calling upon the petitioner to repay the amount. The petitioner received the notice on 14.09.2010. The petitioner had not chosen to repay the amount but issued a reply on 12.10.2010 with false averments. Hence, the complaint was registered.

4.The learned counsel for the petitioner would submit that during the pendency of the proceedings, a settlement was arrived between the petitioner and the respondent on 27.07.2017 and it was agreed that Rs.5,00,000/- to be paid, to settle both the cases in C.C.No.141 of 2013 filed by the petitioner and C.C.No.428 of 2017 filed by the petitioner's wife. In pursuant to the same, the petitioner has paid a sum of Rs.2,50,000/- The balance amount of Rs.2,50,000/- has to be paid so that quietus would be given to both the cases in C.C.Nos.141 of 2013 and 428 of 2018. 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.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) to the credit of C.C.No.141 of 2013 before the Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore, on or before 19.01.2021 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 Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore, within a period of 7 days from 19.01.2021 and on further condition that the petitioner shall appear before the said Court once in three months at 10.30 a.m., on first working day of a month till the disposal of the revision. If the petitioner fails to deposit the amount of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) by 19.01.2021, the order would stand cancelled automatically.

-sd/-
17/12/2020

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,
FAST TRACK COURT AT MAGISTERIAL LEVEL-II,
COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION].

3 THE III ADDITIONAL DISTRICT
AND SESSIONS JUDGE, COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S. B.R.SHANKARALINGAM Advocate on payment of
necessary charges SR.NO 8365

Order

in
CRL MP.6800/2020
in
CRL RC.975/2020

Date :17/12/2020

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MN-29/12/2020

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