

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.M.P.No.8143 of 2020

in

CRL.R.C.No.1166 of 2020

K.Venkatesan

... Petitioner

Vs.

G.Srinivasan

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 482 of Criminal Procedure Code to suspend the sentence dated 06.02.2019 in C.C.No.73 of 2013 on the file of the Judicial Magistrate No.2, Salem, as confirmed by the Sessions Court in C.A.No.43 of 2019 dated 21.07.2020 on the file of the I Additional Sessions Judge, Salem pending disposal of the above revision.

For Petitioner : Mr.V.Sekar

O R D E R

This Criminal Miscellaneous Petition has been filed to suspend the sentence of the order of conviction dated 21.07.2020 passed in C.A.No.43 of 2019 by the I Additional Sessions Judge, Chennai, confirming the order of conviction dated 06.02.2019 in C.C.No.73 of 2013 before the Judicial Magistrate No.2, Salem, pending disposal of the criminal revision petition.

2. The case of the prosecution is that the petitioner/accused had approached the respondent on 27.10.2012, borrowed a loan amount of Rs.1,60,000/-, agreeing to repay the amount. Thereafter, the petitioner had given a cheque amount of Rs.1,60,000/- drawn on Canara Bank, Suramangalam, Salem. When the respondent/complainant presented the cheque for collection on 18.12.2012, the same was returned with an endorsement "funds insufficient". Hence, the respondent/complainant has issued a legal notice on 29.12.2012 and the same was refused by the accused. Even thereafter, the accused had neither replied nor paid any amount. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the first respondent has filed a private complaint in C.C.No.73 of 2013 against the petitioner/accused for the offence under Section 138 of Negotiable Instrument Act, which was allowed by the Trial Court on 06.02.2019 and convicted the petitioner and sentenced to undergo six months simple imprisonment and also directed to pay a sum of Rs.1,60,000/- as compensation to the first respondent herein within a period of two months. Aggrieved against the same, the petitioner herein filed an appeal before the learned I Additional Sessions Judge, Salem and the same was dismissed by the Lower Appellate Court on 21.07.2020. 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 its proper and perspective manner and gave a wrong finding and convicted the petitioner. He would further submit that without prejudice to his contention, the petitioner is ready and willing to deposit Rs.80,000/- (Rupees Eighty Thousand only).

4. In view of the above submission, this Court is inclined to suspend the sentence on condition that the petitioner is directed to deposit a sum of Rs.80,000/- (Rupees Eighty Thousand only) to the credit of C.C.No.73 of 2013 before the learned Judicial Magistrate No.II, Salem 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 learned Judicial Magistrate No.II, Salem 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. till the disposal of the revision. If the petitioner fails to deposit the amount of Rs.80,000/- (Rupees Eighty Thousand only) by 19.01.2021, the order would stand cancelled automatically.

-sd/-

सत्यमेव जयते
16/12/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE IST ADDITIONAL SESSIONS JUDGE,
SALEM.

2 THE JUDICIAL MAGISTRATE NO.II,
SALEM.

3 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

C.C. to M/S. V.SEKAR Advocate on payment of necessary
charges

Order

in

CRL.MP.NO.8143/2020

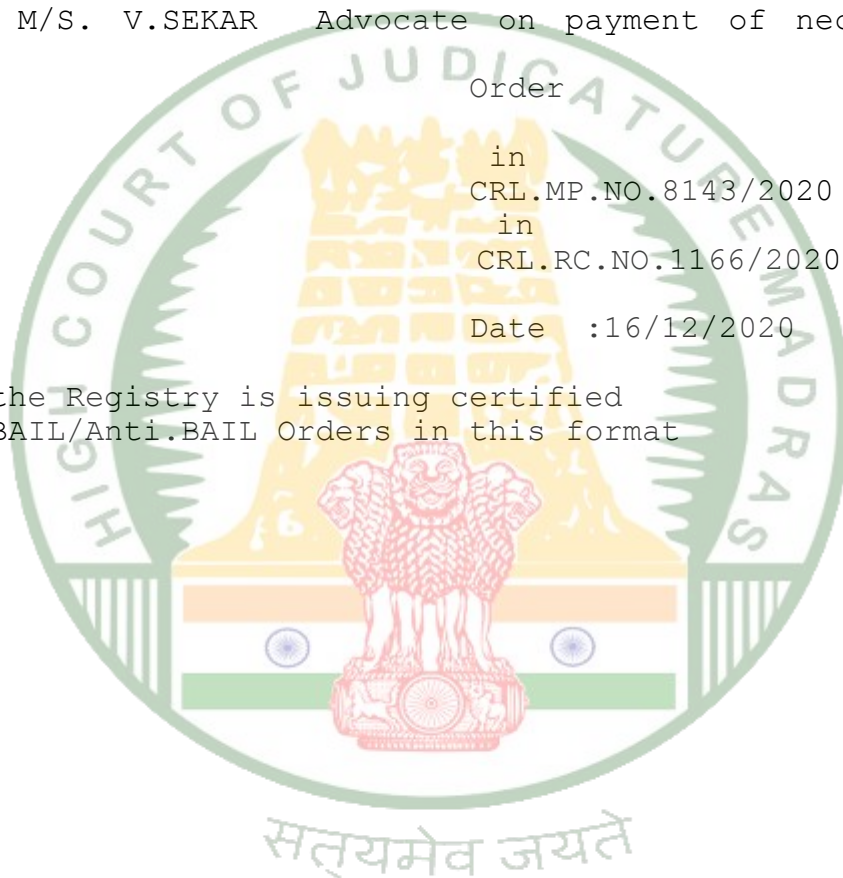
in

CRL.RC.NO.1166/2020

Date :16/12/2020

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MK:07/01/2021



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