

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.8035 of 2020

in CRL.R.C.No.1141 of 2020

I.Vincent

... Petitioner

/versus/

R.Venkatesan

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 397(1) of Cr.P.C., praying to suspend the sentence imposed on the petitioner by the learned V Additional District and Sessions Judge, Coimbatore in C.A.No.196 of 2018 dated 25.10.2019 confirming the judgment of the learned Judicial Magistrate Fast Track Court No.I, Coimbatore in C.C.No.414 of 2017 dated 25.04.2018.

For Petitioner : Mr.J.Franklin

ORDER

The Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner in order dated 25.10.2019 made in Crl.Appeal No.196 of 2018 by the learned V Additional District and Session Judge, Coimbatore confirming the judgment dated 25.04.2018 made in C.C.No.414 of 2017 by the learned Magistrate Fast Track Court No.I at Magistrate Level, Coimbatore 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 C.C.No.414 of 2017.

3.The gist of the case is that respondent/complainant had lodged a complaint under Section 138 of the Negotiable Instrument Act, alleging that on 20.05.2016, the petitioner has borrowed a sum of Rs.2,40,000/- from the complainant as hand loan at his residence and promised to repay the said amount within 10 days. Thereafter, the petitioner/accused on discharge of his liability issued 4 cheques bearing Nos.937186, 937187, 937188 and 189464 respectively each valued at Rs.60,000/- drawn at Indian Bank, Singanallur Branch in favour of complainant. Thereafter, when the respondent presented the said cheque for collection, the same was returned with an endorsement as "Funds Insufficient". Thereafter, the complainant had issued a legal notice dated 20.06.2016 to the petitioner. The

petitioner has not taken any steps to repay the amount. Hence, the complaint was registered.

4.The learned counsel for the petitioner would submit that the cheques issued in question has been issued in the year 2006-2007 and no transaction between the petitioner and the respondent in the year 2016 as alleged by the respondent. The Courts below failed to appreciate that cheques were not MICR cheques and they cannot be the cheques for the year 2016 and the petitioner is not at all liable to pay the amount of the cheques and the cheques in question were not issued for discharging any legally enforceable debt. The Courts below failed to note that there is no money transaction between the petitioner and the respondent in the year of 2016 and they have money transactions only in the year of 2006-2007 for which the subject matter of the cheques were issued only as a security and not presenting the cheques for collection. 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.40,000/- (Rupees Fourty Thousand Only) to the credit of CC.No.414 of 2017 before the learned Judicial Magistrate, Fast Track Court No.I, Magistrate Level, Coimbatore on or before 06.01.2021 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, Fast Track Court No.I, Magistrate Level, Coimbatore within a period of 7 days from 06.01.2021 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.40,000/- (Rupees Fourty Thousand Only) by 06.01.2021, the order would stand cancelled automatically.

-sd/-

सत्यमेव जयते 11/12/2020

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 NO.I, MAGISTRATE LEVEL,
COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE. [FOR INFORMATION]

3 THE V ADDITIONAL DISTRICT AND
SESSIONS JUDGE, COIMBATORE

C.C. to M/S. J.FRANKLIN Advocate on payment of necessary
charges

Order

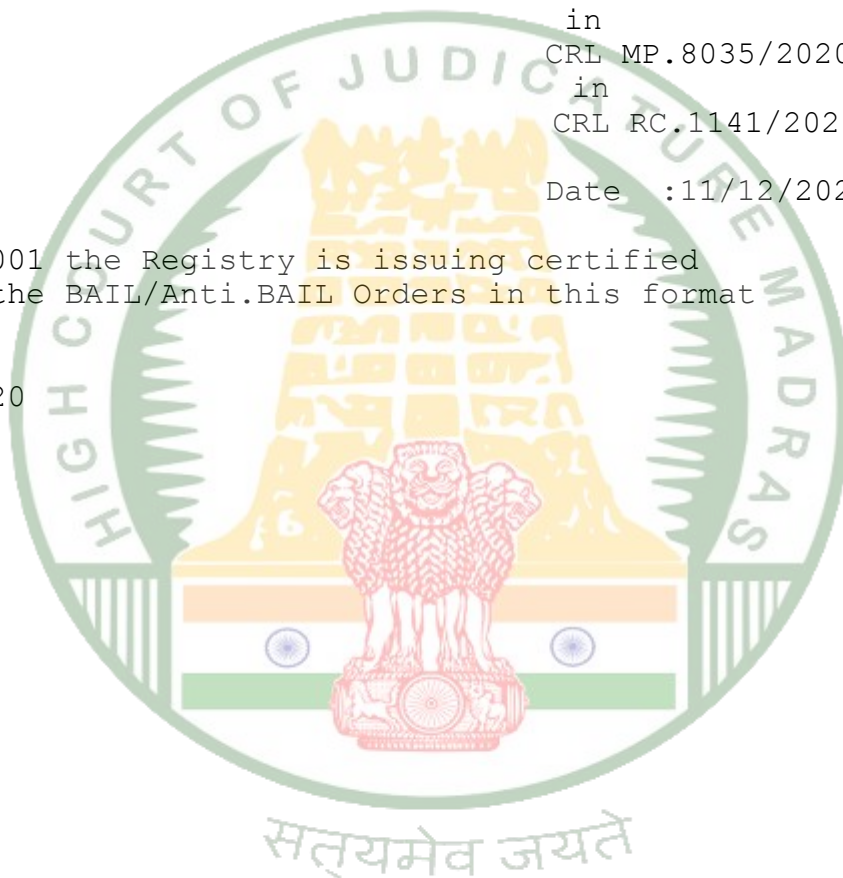
in
CRL MP.8035/2020

in
CRL RC.1141/2020

Date :11/12/2020

From 7.2.2001 the Registry is issuing certified
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TA-16/12/2020



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