

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.M.P.No.8138 of 2020

in CRL.R.C.No.1165 of 2020

Jayapal

... Petitioner

Proprietor of Sathya Fruits,
Having Office at No.T/C-63,
Anna Fruits Market, Koyambedu,
Chennai-600 002.

Vs.

... Respondent

M/s.Jeevan Fruits Company
Represented by its Proprietor,
P.Pramod Kumar,
S/o.Jeethlal,
Having Office at T/F-3,
Anna Fruits Market, Koyambedu,
Chennai-600 092.

PRAYER: Criminal Miscellaneous Petition filed under Sections 397(1) r/w 439 of Criminal Procedure Code to suspend the sentence of imprisonment imposed in the judgment dated 29.10.2020 made in C.A.No.193 of 2019 on the file of the XVI Additional Sessions Judge, Chennai, confirming the conviction imposed in judgment dated 16.04.2019 made in C.C.No.442 of 2018 on the file of the learned Metropolitan Magistrate, FTC-II, Egmore, Chennai and enlarge the petitioner on bail pending disposal of the above revision petition.

For Petitioner : Mr.R.Thirumoorthy

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed in the judgment dated 29.10.2020 made in C.A.No.193 of 2019 on the file of the XVI Additional Sessions Judge, Chennai, confirming the conviction imposed in judgment dated 16.04.2019 made in C.C.No.442 of 2018 on the file of the learned Metropolitan Magistrate, FTC-II, Egmore, Chennai and enlarge the petitioner on bail pending disposal of the above revision petition.

2. The case of the prosecution is that the petitioner had approached the respondent/complainant and purchased the fruits in the various dates from the complainant worth about Rs.11,12,673/- and the goods are sold and delivered to the accused on the date. To discharge his liability, the petitioner issued the cheques bearing

Cheque No.951170 dated 06.03.2017 for Rs.4,00,000/-, Cheque No.951172 dated 16.03.2017 for Rs.4,00,000/-, Cheque No.951175 dated 17.03.2017 for Rs.3,12,673/- to the complainant. When the cheques were presented on 18.03.2017 for collection, the same were returned unpaid on 18.03.2017. Thereafter, the respondent had sent a legal notice on 11.04.2017 and even after receipt of the said legal notice, 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.442 of 2018 against the petitioner/accused for the offence under Section 138 of Negotiable Instrument Act, which was allowed by the Trial Court on 16.04.2019 and the petitioner was convicted and sentenced to undergo one year simple imprisonment and also directed to pay a sum of Rs.22,25,346/- as compensation to the respondent herein, in default, to undergo simple imprisonment for further period of three months. Aggrieved against the same, the petitioner herein filed an appeal before the learned XVI Additional District and Sessions Court, Chennai in C.A.No.193 of 2019, which was dismissed by the Lower Appellate Court on 29.10.2020. 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 prospective manner and gave a wrong finding and convicted the petitioner. He would further submit that the petitioner had already deposited a sum of Rs.2,22,535/- (Rupees Two Lakhs Twenty Two Thousand Five Hundred and Thirty Five Only) to the credit of C.C.No.442 of 2018. Therefore, without prejudice to his contention, the petitioner is ready and willing to deposit Rs.3,33,802/- (Rupees Three Lakhs Thirty Three Thousand Eight Hundred and Two Rupees only).

सत्यमेव जयते

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.3,33,802/- (Rupees Three Lakhs Thirty Three Thousand Eight Hundred and Two Rupees only) to the credit of C.C.No.442 of 2018 before the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Chennai 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 Metropolitan Magistrate, Fast Track Court No.II, Egmore, Chennai 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.3,33,802/- (Rupees Three Lakhs Thirty Three Thousand Eight Hundred and Two Rupees only) by 19.01.2021, the order would

stand cancelled automatically.

-sd/-
23/12/2020

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 METROPOLITAN MAGISTRATE,
FAST TRACK COURT NO.II, EGMORE, CHENNAI .

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE XVI ADDITIONAL SESSIONS JUDGE,
CHENNAI.

C.C. to M/S. R.THIRUMOORTHY Advocate on payment of necessary charges

Order

in
CRL MP.8138/2020
in
CRL RC.1165/2020

Date :23/12/2020

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

TA-04/01/2021

WEB COPY