

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.M.P.No.8077 of 2020

in CRL.R.C.No.1146 of 2020

A.M.Marketing Associates,
Prop.M.Arun,
S/o.K.Masilamani

.. Petitioner

/versus/

Sri Amman Precision Component (P) Ltd.,
Rep by its Managing Director,
R.Padmanaban

.. Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 397 (1) of Cr.P.C., praying to suspend the sentence passed against the petitioner in the judgment dated 17.12.2019 made in C.A.No.346 of 2018 on the file of the V Additional District and Sessions Judge, Coimbatore, confirming the judgment and conviction dated 02.08.2018 made in C.C.No.192 of 2015 on the file of the Judicial Magistrate, Fast Track Court No.II, Magisterial Level, Coimbatore, the petitioner/Accused found guilty under Section 138 of the Negotiable Instruments Act, sentenced to undergo six months Simple Imprisonment and directed to pay compensation of Rs.1,50,000/- to the respondent/complainant with interest at the rate of 6% per annum within one month in default to undergo three months simple imprisonment, enlarge the petitioner on bail pending disposal of the above Criminal Revision Petition.

For Petitioner : Mr.B.R.Shankara Lingam

O R D E R

The Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner in the judgment dated 17.12.2019 made in C.A.No.346 of 2018 on the file of the V Additional District and Sessions Judge, Coimbatore, confirming the judgment and conviction dated 02.08.2018 made in C.C.No.192 of 2015 on the file of the Judicial Magistrate, Fast Track Court No.II, Magisterial Level, Coimbatore, enlarge the petitioner on bail, pending disposal of the above Criminal Revision Case.

2.The petitioner is an accused on a private complaint filed by the respondent for offence under Section 138 of the Negotiable Instrument Act in C.C.No.192 of 2016 on the file of the Judicial Magistrate, Fast Track Court No.II, Magisterial Level, Coimbatore.

3.The gist of the case is that the respondent/complainant lodged a complaint under Section 138 of the Negotiable Instrument Act, alleging that the respondent/complainant a manufacturer of Aluminium Pressure Die castings and the petitioner/accused is one of the customer used to buy Cable Connection Box from the respondent. In course of business transaction, the accused was due and liable to pay a sum of Rs.2,70,000/-. The respondent demanded the said amount of Rs.2,70,000/- through his letter dated 30.09.2014 and the accused confirmed the said statement in the same letter. To discharge the liability on the same day on 30.09.2014, the petitioner issued two post dated cheques bearing No.419564 dated 27.10.2014 for Rs.1,50,000 and another cheque bearing No.419565 dated 25.11.2014 for Rs.1,20,000/- drawn on Corporation Bank in favour of the respondent. When the respondent presented the cheque bearing no.419564 for Rs.1,50,000/-, the same was dishonoured and returned for the reason "Account Closed under bank memo dated 30.10.2014. The respondent issued a notice to the accused on 20.11.2014 calling upon the accused to pay the cheque amount and the same was received by the accused on 24.11.2014. The petitioner has not taken any steps to repay the amount. Hence, the complaint was filed.

4.The learned counsel for the petitioner would submit as per the averments set out in the complaint, the case of the respondent is that the petitioner purchased materials between 22.10.2013 and 18.06.2014 under 10 invoices, the total value of invoices is Rs.2,70,000/-. P.W.1 in the course of his cross examination before the Trial Court categorically admitted that a sum of Rs.2,00,000/- was paid by the petitioner by way of bank transfer on 29.09.2014. The Courts below placed much reliance on Ex.P6, an alleged acknowledgement of debt of Rs.2,70,000/- which cannot be true since a sum of Rs.2,00,000/- had already been duly paid to the respondent one day prior to Ex.P6. Admittedly there is no debt or liability as on date of the complaint to a tune of Rs.2,70,000/-. 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.50,000/- (Rupees Fifty Thousand Only) to the credit of C.C.No.192 of 2015 before the Judicial Magistrate, Fast Track Court No.II, Magisterial Level, Coimbatore, 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 the Judicial Magistrate, Fast Track Court No.II, Magisterial Level, Coimbatore, 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.50,000/- (Rupees Fifty Thousand Only) by 10.01.2021, 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 V ADDITIONAL DISTRICT AND SESSIONS JUDGE,
COIMBATORE.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT NO.II MAGISTERIAL LEVEL,
COIMBATORE.

3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

+1C.C. to M/S.B.R.SHANKARA LINGAM Advocate on payment of
necessary charges SR NO.8360

सत्यमेव जयते Order

in
CRL.MP.NO.8077/2020

in
CRL.RC.NO.1146/2020

Date :17/12/2020

From 7.2.2001 the Registry is issuing certified
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MK:29/12/2020