



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.8244 of 2020

in CRL.R.C.No.1188 of 2020

Mrs.Anitha Thomas ... Petitioner
Proprietor,
M/s.Grave Bio Energy, Coimbatore,
L2, Akshay Gardens, Jaya Nagar, 3rd Cross,
Vadavalli, Coimbatore-641 041.

Vs.

M.P.Sureshan ... Respondent
S/o.M.K.Damodharan,
Proprietor,
M/s.Converter Corporation, Coimbatore,
15-A, 3rd Street, Murugan Nagar,
Nanjundapuram, Coimbatore-641 045.

PRAYER: Criminal Miscellaneous Petition filed under Sections 397(1) of Criminal Procedure Code to suspend the sentence imposed on the petitioner dated 25.02.2020 in C.A.No.554/2018 dated 25.02.2020 on the file of the learned IV Additional District & Sessions Judge, Coimbatore confirming the Judgment passed in C.C.No.100 of 2017 dated 03.12.2018 on the file of the learned Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore pending disposal of the above criminal revision.

For Petitioner : Mr.D.Basker

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner dated 25.02.2020 in C.A.No.554/2018 dated 25.02.2020 on the file of the learned IV Additional District & Sessions Judge, Coimbatore confirming the Judgment passed in C.C.No.100 of 2017 dated 03.12.2018 on the file of the learned Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore pending disposal of the above criminal revision.

2. The case of the prosecution is that the petitioner's/accused firm agreed for erection work on machineries with the respondent/complainant's firm and the work was completed and the amount was settled in the month of November & December 2013 itself.



Thereafter, the complainant firm paid a sum of Rs.43,00,000/- to the accused firm towards manufacturing the new machines and since the accused firm not properly done their work, the complainant had returned certain machines and with respect to the delivery of the remaining machine, the petitioner and the accused have entered into the Memorandum of Undertaking dated 27.05.2014 and accordingly, the accused firm have to complete the entire work and deliver the materials within 60 days. Further the accused issued the cheque on 27.05.2014 for a sum of Rs.3,50,000/- in default of supply of materials, thereafter, the accused informed the complainant to present the cheque for collection. Thereafter, the respondent/complainant has presented the cheque for collection on 25.08.2014 and the said cheque was returned as "insufficient funds" and the respondent/complainant has issued a legal notice dated 13.09.2014 as against the petitioner. Even after the receipt of 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.100 of 2017 against the petitioner/accused for the offence under Section 138 of Negotiable Instrument Act, which was allowed by the Trial Court on 03.12.2018 and convicted the petitioner and sentenced to undergo six months simple imprisonment and also directed to pay a sum of Rs.3,50,000/- as compensation with interest at the rate of 6% per annum from the date of cheque to the respondent herein, in default, to undergo simple imprisonment for further period of six months. Aggrieved against the same, the petitioner herein filed an appeal before the learned IV Additional District and Sessions Judge, Coimbatore, which was dismissed by the Lower Appellate Court on 25.02.2020. 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 without prejudice to his contention, the petitioner is ready and willing to deposit Rs.1,75,000/- (Rupees One Lakh Seventy Five 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.1,75,000/- (Rupees One Lakh Seventy Five Thousand Only) to the credit of C.C.No.100 of 2017 before the learned Judicial Magistrate, Fast Track Court @ Magisterial Level-II, Coimbatore on or before 12.01.2021 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 @ Magisterial Level-II, Coimbatore within a period of 7 days from 12.01.2021 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.1,75,000/- (Rupees One Lakhs Seventy Five Thousand Only) by



12.01.2021, the order would stand cancelled automatically.

-sd/-
16/12/2020

WEB COPY
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 IV ADDITIONAL DISTRICT & SESSIONS JUDGE,
COIMBATORE.

+1 C.C. to M/S.D.BASKER Advocate on payment of necessary
charges SR.NO.8255

Order

in
CRL MP.8244/2020
in
CRL R.C.NO.1188/2020

Date :16/12/2020

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

TA-22/12/2020