THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.8241 of 2020
in
CRL.R.C.No.1186 of 2020

R.Sheela ... Petitioners

Vs.

K.Venkatasubramaniaym ... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 397(1) of Criminal Procedure Code to suspend the sentence of the order of conviction dated 22.10.2019 passed in C.A.No.519 of 2018 by the IV Additional City Civil Court, Chennai and confirming the order of conviction dated 28.08.2018 passed in C.C.No.1383 of 2015 before the learned Metropolitan Magistrate Fast Track Court-II, Egmore at Chennai, pending disposal of the above main Criminal Revision Petition.

For Petitioner : Mr.A.Balasingh Ramanujam

O R D E R

This Criminal Miscellaneous Petition has been filed to suspend the sentence of the order of conviction dated 22.10.2019 passed in C.A.No.519 of 2018 by the IV Additional City Civil Court, Chennai and confirming the order of conviction dated 28.08.2018 passed in C.C.No.1383 of 2015 before the learned Metropolitan Magistrate Fast Track Court-II, Egmore at Chennai, pending disposal of the above main Criminal Revision Petition.

2. The case of the prosecution is that the petitioner had approached the respondent/complainant on 29.06.2013, borrowed a sum of Rs.10,000/- and on 31.08.2013, borrowed a sum of Rs.20,000/- and on 17.10.2013, borrowed a sum of Rs.1,40,000/- and acknowledged her debt on the respective dates by way of execution of promissory notes, wherein, the petitioner has agreed to repay the same with interest at the rate of 24% per annum. Inspite of several requests and demands made by the complainant, the petitioner had failed to repay the amount. Thereafter, the respondent issued a letter on 10.06.2014 and demanded to repay the principal amount with interest. On receipt of the letter, the petitioner has sent a cheque for a sum of Rs.1,40,000/- dated 22.06.2014 bearing Cheque No.000063 drawn on Karur Vysya Bank Limited, Arumbakkam along with the letter. When the cheque was presented on 02.07.2014 for collection through his Punjab Nation Bank, the same was returned on 03.07.2014 with an endorsement

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"Account closed".Thereafter, the respondent had sent a legal notice on 15.07.2014 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.1383 of 2015 against the petitioner/accused for the offence under Section 138 of Negotiable Instrument Act, which was allowed by the Trial Court on 28.08.2018 and the petitioner was convicted and sentenced to undergo one year simple imprisonment and also directed to pay a sum of Rs.2,80,000/- 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 IV Additional Sessions Court, Chennai in C.A.No.519 of 2018, which was dismissed by the Lower Appellate Court on 22.10.2019. 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 prespective 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.70,000/- (Rupees Seventy 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.70,000/- (Rupees Seventy Thousand Only) to the credit of C.C.No.1383 of 2015 before the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Chennai 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 Metropolitan Magistrate, Fast Track Court No.II, Egmore, Chennai 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.70,000/- (Rupees Seventy Thousand Only) by 12.01.2021, the order would stand cancelled automatically.

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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.

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TO

1 THE METROPOLITAN MAGISTRATE
FAST TRACK COURT-II, EGMORE, CHENNAI

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI (FOR INFORMATION)

3 IV ADDITIONAL CITY CIVIL COURT
CHENNAI

C.C. to M/S.A.BALASINGH RAMANUJAM Advocate on payment of necessary charges Sr.8311

Order

in
CRL MP.8241/2020

in
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Date :16/12/2020

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RVR 22/12/2020

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