

THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.12.2020
CORAM
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.M.P.No.8246 of 2020

in

CRL.R.C.No.1189 of 2020

S.Sivasubramanian

... Petitioner

Vs.

1. T.Balakrishnan
Advocate,
39E, MTH Road,
Villivakkam,
Chennai-600 069.

2.The Public Prosecutor,
Tiruvallur.

... Respondents

PRAYER: Criminal Miscellaneous Petition filed under Sections 397(1) of Criminal Procedure Code to suspend the sentence imposed on the petitioner by the judgment dated 04.10.2020 passed in C.A.No.59 of 2016 on the file of the Principal Sessions Court, Thiruvallur confirming the judgment dated 11.08.2016 passed in S.T.C.No.75 of 2016 on the file of the Judicial Magistrate, Fast Track Court (Magisterial Level), Ambattur, pending disposal of the above revision.

For Petitioner : Mr.J.Titus Enock

O R D E R

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the judgment dated 04.10.2020 passed in C.A.No.59 of 2016 on the file of the Principal Sessions Court, Thiruvallur confirming the judgment dated 11.08.2016 passed in S.T.C.No.75 of 2016 on the file of the Judicial Magistrate, Fast Track Court (Magisterial Level), Ambattur, pending disposal of the above revision.

2. The case of the prosecution is that the petitioner/accused received a sum of Rs.8,50,000/- from the respondent/complainant on 10.03.2007 by duly handing over the original sale deed dated 06.02.2007 executed in his favour by C.Thanasekar, S/o.K.V.Chinnikrishnan residing at No.61, Oragadam Road, Ambattur, Chennai-53 through his Power Agent Thiru.S.Meena Manian, w/o.S.Sivasubramanian and registered as Document No.832/2007 dated 06.02.2007 in the Sub-Registrar's Office, Ambattur, Chennai-600 053 consisting of 3200 sq.ft., of vacant land situated at No.111 (Old No.82), Varadharajapuram District with an intention to execute a Sale Deed in favour of the complainant for sale consideration. The above said land already acquired by the Government for widening the road. When the complainant came to know about the fact, he demanded the petitioner to return the above said amount of Rs.8,50,000/-. Thereafter, the petitioner/accused has given a cheque for a sum of Rs.5,56,000/- dated 20.07.2019 bearing Cheque No.557017 drawn on Indian Overseas Bank, Tiruchendur Branch. When the cheque was presented on 14.09.2009 for collection, the same was returned on 19.09.2009 with an endorsement "Insufficient funds". Thereafter, the respondent had sent a legal notice on 16.10.2009 and even after receipt of the said legal notice, the petitioner/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 S.T.C.No.75 of 2016 against the petitioner/accused for the offence under Section 138 of Negotiable Instrument Act, which was allowed by the Trial Court on 17.08.2016 and the petitioner was convicted and sentenced to undergo six months simple imprisonment and also directed to pay a sum of Rs.5,56,000/- as compensation to the respondent herein within a period of one month, in default, to undergo simple imprisonment for further period of one month. Aggrieved against the same, the petitioner herein filed an appeal before the learned Principal Sessions Judge, Tiruvallur in C.A.No.59 of 2016, which was dismissed by the Lower Appellate Court on 14.08.2020. 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 prospective 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.2,78,000/- (Rupees Two Lakh Seventy Eight 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.2,78,000/- (Rupees Two Lakhs Seventy Eight Thousand Only) to the credit of S.T.C.No.75 of 2016 before the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Ambattur 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), Ambattur 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.2,78,000/- (Rupees Two Lakhs Seventy Eight Thousand Only) by 12.01.2021, the order would stand cancelled automatically.

-sd/-

16/12/2020

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 (MAGISTRIAL LEVEL),
AMBATTUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE PUBLIC PROSECUTOR
TIRUVALLUR

5 THE PRINCIPAL SESSIONS COURT,
THIRUVALLUR

C.C. to M/S. J.TITUS ENOCK Advocate on payment of necessary charges Sr.8348

Order

in

CRL MP.8246/2020

in

CRL.R.C.No.1189 of 2020

Date :16/12/2020

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

RVR 22/12/2020

<https://hcservices.ecourts.gov.in/hcservices/>