

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.M.P.No.8360 of 2020

in

CRL.R.C.No.1205 of 2020

C.Nayanar

... Petitioner

Vs.

M.Neelamegam

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 389 and 439 of Criminal Procedure Code to suspend the sentence dated 13.03.2020 in C.A.No.179 of 2018 on the file of I Additional District and Sessions Court, Salem, confirming the judgment and sentence dated 31.10.2018 in S.T.C.No.254 of 2018 on the file of the Special Court for Land Grabbing/Special Judicial Magistrate, Salem and grant bail to the petitioner pending disposal of the Criminal Revision Case.

For Petitioner : Mr.K.Selvaraj

O R D E R

This Criminal Miscellaneous Petition has been filed to suspend the sentence dated 13.03.2020 in C.A.No.179 of 2018 on the file of I Additional District and Sessions Court, Salem, confirming the judgment and sentence dated 31.10.2018 in S.T.C.No.254 of 2018 on the file of the Special Court for Land Grabbing/Special Judicial Magistrate, Salem and grant bail to the petitioner pending disposal of the Criminal Revision Case.

2. The case of the prosecution is that the petitioner/accused and the defacto complainant are friends and the petitioner had borrowed a loan amount of Rs.3,50,000/- for his family expenses, agreeing to repay the amount with interest. Thereafter, the petitioner had given a cheque amount of Rs.3,50,000. When the respondent/complainant presented the cheque for collection on 16.08.2016, the same was returned with an endorsement "Account closed". Hence, the respondent/complainant has issued a legal notice on 23.08.2016. Even after receipt of the 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 S.T.C.No.254 of 2018 against the petitioner/accused for the offence under Section 138 of Negotiable Instrument Act, which was allowed by the Trial Court on 31.10.2018 and convicted the petitioner and sentenced to undergo three months simple imprisonment and also directed to pay a sum of Rs.3,50,000/- as compensation to the respondent herein. Aggrieved against the same, the petitioner herein filed an appeal before the learned I Additional District and Sessions Court, Salem which was dismissed by the Lower Appellate Court on 13.03.2020. 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 S.T.C.No.254 of 2018 before the Special Court for Land Grabbing/Special Judicial Magistrate, Salem on or before 27.01.2021 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 Special Court for Land Grabbing/Special Judicial Magistrate, Salem, within a period of 7 days from 27.01.2021 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 Lakh Seventy Five Thousand Only) by 27.01.2021, the order would stand cancelled automatically.

-sd/-

18/12/2020

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 SPECIAL COURT FOR LAND GRABBING/  
SPECIAL JUDICIAL MAGISTRATE, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE  
SALEM [FOR INFORMATION]

3 THE I ADDITIONAL DISTRICT  
AND SESSIONS COURT, SALEM.

+1 C.C. to M/S. K.SELVARAJ Advocate on payment of necessary charges  
SR.No.8418

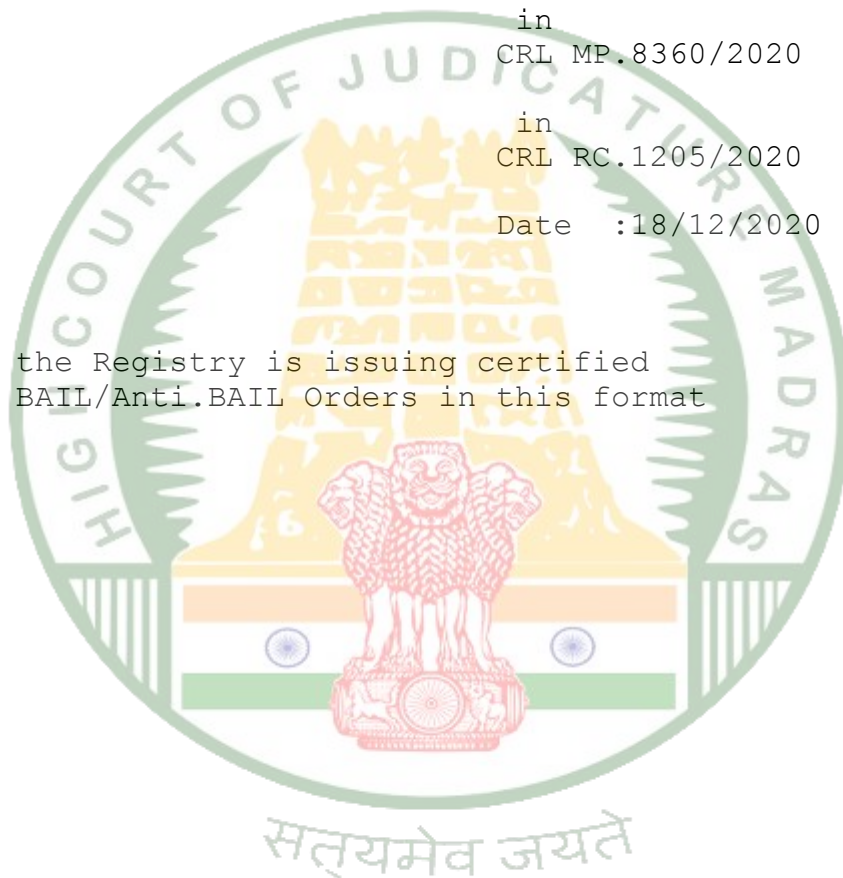
Order

in  
CRL MP.8360/2020

in  
CRL RC.1205/2020

Date :18/12/2020

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cs 29/12/2020



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