



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Third day of December Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION Nos. 12168 & 12171 of 2021

IN CRL.R.C.NO.861 of 2021

1 M/S.VETRI TRANS
REP BY ITS PROPRIETOR,
C.MUNIAPPAN,

[PETITIONERS]

2 C.MUNIAPPAN
PROP.M/S. VETRI TRANS

Vs

TRAILER OWNER'S ASSOCIATION,
REP BY ITS MANAGER G.VIJAYAKUMAR

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i)suspend the sentence /conviction dated 13.02.2020 made in C.A.No.424 of 2019 on the file of the learned XVIII Additional Sessions judge, Chennai confirming the judgement and conviction dated 26.11.2019 made in C.C.No. 366 of 2018 on the file of the Hon`ble Metropolitan Magistrate, Fast Track Court at Magisterial Level -IV, George Town, Chennai, Accused found guilty under Section 138 of the Negotiable Instruments Act, 2nd Accused to undergo six month Simple Imprisonment and accused 1 & 2 shall pay dishonoured cheque amount of Rs.1,00,000/- as compensation to the Complainant within one month U/s.357(3) CR.P.C, in default of payment of the compensation, the 2nd Accused shall undergo a further of two months simple imprisonment as default sentence, pending disposal of the CRL.R.C.NO.861 of 2021. [IN CRL.M.P.No.12168/2021]

(ii) exempt the petitioner from surrendering before the Hon`ble Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai -1, in pursuance to the judgement dated 13.02.2020 made in C.A.No 424 of 2019 on the file of the Hon`ble XVIII Additional Sessions Judge, Chennai confirming the judgement and conviction dated 26.11.2019 made



in C.C.No.366 of 2018 on the file of the Hon'ble Metropolitan Magistrate Fast Track Court at Magisterial Level -IV, George Town, Chennai, Accused found guilty under Section 138 of the Negotiable Instruments Act, 2nd Accused to undergo six month Simple Imprisonment and accused 1 & 2 shall pay dishonoured cheque amount of Rs.1,00,000/- as compensation to the Complainant within one month U/s.357(3) CR.P.C, in default of payment of the compensation, the 2nd Accused shall undergo a further of two months simple imprisonment as default sentence, pending disposal of the CRL.R.C.NO.861 of 2021. [IN CRL.M.P.No.12171/2021]

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of B.R.SANKARA LINGAM, Advocate for the Petitioners the court made the following order:-

These Criminal Miscellaneous Petition has been filed by the Petitioner/Accused, seeking suspension of sentence, imposed by the judgment dated 26.11.2019 in C.C.No.366 of 2018 by the learned Metropolitan Magistrate, Fast Track Court at Magisterial Level -IV, George Town, Chennai, and confirmed by the judgment dated 13.02.2020 in C.A.No.424 of 2019 by the learned XVIII Additional Sessions Judge, Chennai, and to exempt the petitioner from surrendering before the trial court.

2. This Court heard the learned counsel for the petitioner and also perused the materials placed on record.

3. In and by both the impugned judgments, for non-payment of the cheque amount in question, viz., Rs.1,00,000/- the petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, 2nd accused sentenced to undergo Simple Imprisonment for six month and accused 1 & 2 to pay dishonoured cheque amount of Rs.1,00,000/- as compensation to the complainant within one month Under Section 357(3) Cr.P.C, in default of payment of the compensation, in default 2nd accused to undergo a simple imprisonment for two months .

4. Learned counsel for the petitioner/accused would submit that the petitioner at the appellate stage had deposited the amount of Rs.20,000/- which is 20% of the cheque amount of Rs.1,00,000/-. Further he would submit that the petitioner is prepared to deposit the remaining 30% of the cheque amount Rs.30,000/-. He would further submit that there are arguable points available in the Criminal Revision Case, which is not likely to be taken for final hearing in the near future and the petitioner/accused has got a fair chance of succeeding in the Criminal Revision Case and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended and the Petitioner may be exempted from surrendering before the Trial Court.



5. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Revision Case, the reliefs of exemption from surrender before the Trial Court, suspension of sentence and bail are granted on the following conditions:

(a) The petitioner/Accused shall deposit the remaining 30% of the cheque amount (Rs.1,00,000/-), namely, Rs.30,000/- (Rupees Thirty Thousand Only) before the Trial Court, within two weeks from the date of receipt of a copy of this order and on such deposit being made, the Trial Court shall redeposit the said amount in a fixed deposit account in any nationalized bank, so that the amount accrues interest. The disbursal of this amount shall be decided at the culmination of the Criminal Revision Case. Thereafter, the petitioner/accused is ordered to be released on bail, on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Metropolitan Magistrate, Fast Track Court No.IV, Magisterial Level, George Town, Chennai-600 001.

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the revision petition and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the Trial Court.

(d) On the failure of the Petitioner/Accused, depositing the said amount, it is open to the Trial Court to commit the petitioner/accused into custody for undergoing the sentence.

6. These Criminal Miscellaneous Petitions stands ordered accordingly.



7. Notice to the respondent returnable by 17.12.2021. Private notice is also permitted. Post the matter on 17.12.2021 for reporting compliance.

WEB COPY

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03/12/2021

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 XVIII ADDITIONAL SESSIONS
JUDGE, CHENNAI.

2 THE METROPOLITAN MAGISTRATE,
FAST TRACK COURT AT MAGISTRATE LEVEL-IV,
GEORGE TOWN, CHENNAI.

3 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI. [FOR INFORMATION]

4 THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

+1 C.C. to B.R.SANKARA LINGAM Advocate on payment of necessary charges SR.NO.14006

Order

in

CRL MP.Nos. 12168 & 12171 of 2021

in

CRL RC.861/2021

Date :03/12/2021

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

RW 03/12/2021