



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Third day of December Two Thousand Twenty One

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION Nos.13333 & 13334 of 2021

IN CRL RC.NO.1013 of 2021

1 LAKSHMI JEWELLERS
2 ASHOK KUMAR

[PETITIONERS]

Vs

M.PRABHU

[RESPONDENT]

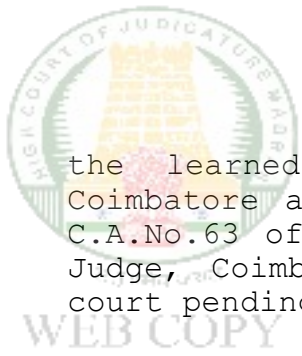
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) Suspend the sentence imposed on the 2nd petitioner in Crl.A.No.63/2020 on the file of the I Additional District and Sessions Court, Coimbatore dated 05.01.2021 confirming the conviction and sentence by Judgment in C.C.No.337/2016 on the file Judicial Magistrate, FTC No.1 (Magistrate Level) Coimbatore dated 08.01.2020 pending disposal of the above CRL RC.NO.1013 of 2021. [CRL.MP.13333/2021]

(ii) exempt the petitioner from surrendering in Crl.A.No.63/2020 on the file of the I Additional District and Sessions Court, Coimbatore dated 05.01.2021 confirming the conviction and sentence by judgment in C.C.No.337/2016 on the file of Judicial Magistrate FTC No.1, (Magisterial Level) Coimbatore dated 08.01.2020 pending disposal of the above CRL RC.NO.1013 of 2021. [CRL.MP.13334/2021]

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S B.KUMARASAMY, Advocate for the petitioner the court made the following order:-

These Criminal Miscellaneous Petitions have been filed by the Petitioners/A1 and A2, seeking suspension of sentence of imprisonment, imposed by the judgment dated 08.01.2020 made in C.C.No.337 of 2016 by



the learned Judicial Magistrate, FTC No.1, (Magistrate Level), Coimbatore and confirmed by the judgment dated 05.01.2021 passed in C.A.No.63 of 2020 by the learned I Additional District and Sessions Judge, Coimbatore and exemption from surrendering before the trial court pending disposal of the above revision.

2. This Court heard the learned counsel for the petitioners 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.20,00,000/- the petitioners were convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo six months Simple Imprisonment and to pay a sum of Rs.20,00,000/- as compensation to the respondent/complainant within two months from the date of judgment and in default to undergo two month S.I. by A2. The petitioner had filed appeal in C.A.No.63 of 2020 before the learned I Additional District and Sessions Judge, Coimbatore and the Appellate Court by judgment dated 05.01.2021, had dismissed the appeal and confirmed the conviction and sentence, against which, the present revision has been filed.

4. According to the learned counsel for the petitioners/A1 and A2, 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 petitioners shall deposit 50% of the cheque amount (Rs.20,00,000/-), namely, Rs.10,00,000/- (Rupees Ten Lakhs Only) before the Trial Court, within three 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 petitioners are ordered to be released on bail, on each of them 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 learned Judicial Magistrate, FTC No.1, (Magistrate Level), Coimbatore.



(b) The petitioners 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 petitioners 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 Petitioners, depositing the said amount, it is open to the Trial Court to commit the petitioners into custody for undergoing the sentence.

6. These Criminal Miscellaneous Petitions stands ordered accordingly.

7. Post the matter on 27.01.2022 for reporting compliance.

-sd/-
23/12/2021

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 I ADDITIONAL DISTRICT AND
SESSIONS COURT, COIMBATORE.

2 THE JUDICIAL MAGISTRATE,
FTC NO.I (MAGISTRATE LEVEL) COIMBATORE.

3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE. [FOR INFORMATION]



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

WEB COPY

+1 C.C. to M/S B.KUMARASAMY Advocate on payment of necessary
charges SR.NO.15548

Order

in

CRL MP.Nos.13333 & 13334/2021

in

CRL RC.1013/2021

Date :23/12/2021

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

RW 23/12/2021