

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.05.2021

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.M.P. Nos.5841 and 5844 of 2021

in

Crl. RC. No.309 of 2021

1.M/s.Sakthi Drives

Rep by its Partner P.G.Senthil,
No.4A, ESR Pearl Apartments,
121, Shivaram Nagar, Ramanathapuram,
Coimbatore - 641 045.

2. P.G.Senthil

Partner M/s.Sakthi Drives,
No.4A, ESR Pearl Apartments,
121, Shivaram Nagar, Ramanathapuram,
Coimbatore - 641 045.

.. Petitioners
in both Crl.M.Ps

-Vs-

M/s.Maxx Equipments Company,
Rep by its Managing Director D.Kannan,
No.2, Bango Road,
Kavundampalayam,
Coimbatore - 641 030.

..Respondent
in both Crl.M.Ps

PRAYER in Crl. M.P. No. 5841 of 2021: Criminal Miscellaneous Petition filed under Section 397(1) r/w 439 of Criminal Procedure Code, praying to suspend the sentence of imprisonment imposed in the judgment dated 11.03.2021 made in C.A. No. 228 of 2017 on the file of the IV Additional District and Sessions Judge, Coimbatore confirming the conviction imposed in the judgment dated 10.07.2017 in C.C. No. 30 of 2014, on the file of the Judicial Magistrate-II, Fast Track Court at Coimbatore and enlarge the second petitioner on bail pending disposal of the above revision petition before this Hon'ble Court.

PRAYER in Crl. M.P. No. 5844 of 2021: Criminal Miscellaneous Petition filed under Section 482 of Criminal Procedure Code, praying to grant an order of exemption from surrendering before the Trial Court in pursuance to the judgment dated 11.03.2021 made in C.A. No. 228 of 2017 on the file of the IV Additional District and Sessions Judge, Coimbatore confirming the conviction imposed in the judgment dated 10.07.2017 in C.C. No. 30 of 2014, on the file of the Judicial Magistrate-II, Fast Track Court at Coimbatore.

For Petitioners
in both W.M.Ps : Mr.A.Thiyagarajan

For Respondent
in both W.M.Ps : S.Karthikeyan
Additional Public Prosecutor

C O M M O N O R D E R
(The case has been heard through video conference)

While CRL. M.P. No. 5841 of 2021 has been filed to suspend the sentence of imprisonment imposed in the judgment dated 11.03.2021 made in C.A. No. 228 of 2017 on the file of the IV Additional District and Sessions Judge, Coimbatore, confirming the conviction imposed in the judgment dated 10.07.2017 in C.C. No. 30 of 2014, on the file of the Judicial Magistrate-II, Fast Track Court at Coimbatore and enlarge the second petitioner on bail pending disposal of the above revision petition before this Hon'ble Court, CRL. M.P. No. 5844 of 2021 has been filed to exempt the petitioners from surrendering before the Trial Court pursuant to the said aforesaid judgment.

2. The learned counsel appearing for the petitioners / accused submitted that the petitioners have been convicted by the IV Additional District and Sessions Judge, Coimbatore, for the alleged offences under Sections 138 and 141 of Negotiable Instruments Act and sentenced the second petitioner / accused to undergo one year simple imprisonment and to pay the cheque amount of Rs.22,44,744/- as compensation within one month in default to undergo six months simple imprisonment.

3. The learned counsel appearing for the second petitioner (A2) further submitted that the second petitioner (A2) is an innocent person and he has been falsely implicated in this case and there are several infirmities in the prosecution case and there are contradictions in material particulars between the evidence of the prosecution witnesses and prays for suspension of sentence.

4. It is submitted by the learned Additional Public Prosecutor that the trial court has rightly convicted the petitioners and there are enough materials available on record against the petitioners and there is no infirmity in the prosecution case and prays for dismissal of this petition.

5. This court has carefully considered the rival contentions put forth on either side and also perused the materials available on record.

6. The learned counsel for the petitioners pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision petition and further the criminal revision petition is not likely to be taken up for final hearing in the near future and as such, this court is of the considered view that the petitioners herein are entitled to the relief of grant of suspension of sentence.

7. Accordingly, CRL. M.P. No. 5841 of 2021 is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision petition on certain conditions:

"(i) The petitioners are directed to be enlarged on bail on condition that they shall 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 Judicial Magistrate-II, Fast Track Court, Coimbatore.

(ii) The petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) The petitioners shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the revision petition and if they are not able to appear before the trial Court on any day, they 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."

8. In view of the present pandemic situation, CRL. M.P. No. 5844 of 2021 seeking the petitioners are exempted from surrendering before the Trial Court is allowed.

-sd/-

12/05/2021

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 IV ADDITIONAL DISTRICT AND SESSIONS JUDGE,
COIMBATORE.

2 THE JUDICIAL MAGISTRATE NO.II,
FAST TRACK COURT, COIMBATORE.

3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

+1C.C. to M/S.A.THIYAGARAJAN Advocate on payment of necessary
charges SR.NO.6228

Order

in

CRL.MP.NOS.5841 & 5844 OF 2021

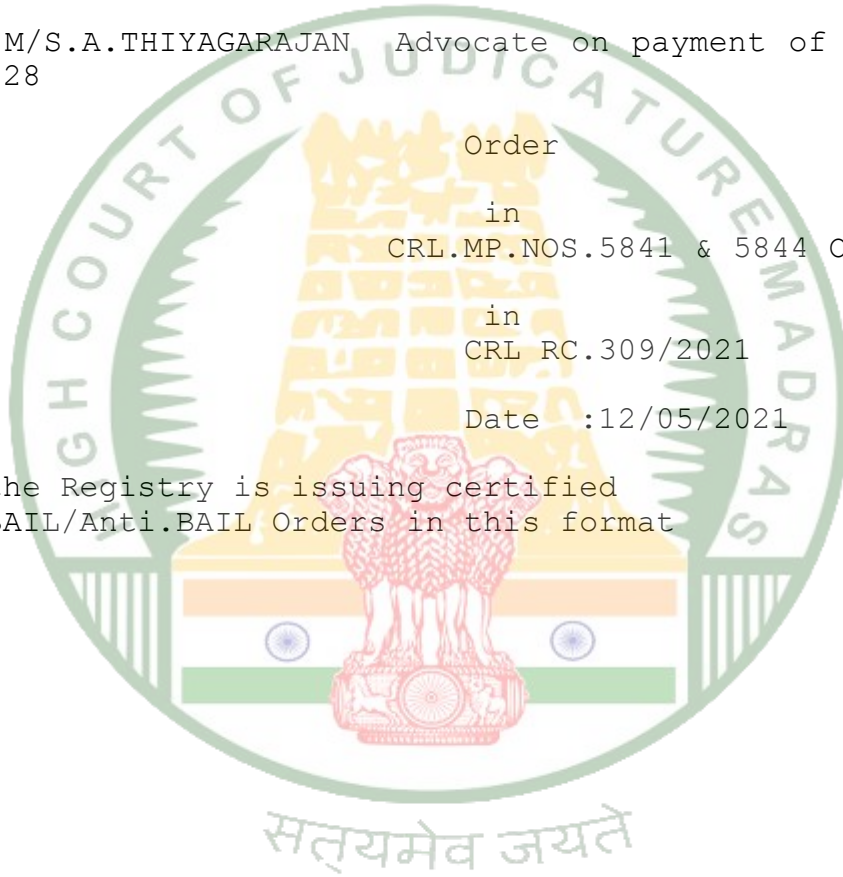
in

CRL RC.309/2021

Date :12/05/2021

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

MK:20/05/2021



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