



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty First day of December Two Thousand Twenty One

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION Nos.13328 and 13330 of 2021

in

CRL.R.C.No.1010 of 2021

1 M/S.FRANCIS SWITCH GEAR & CONTROLS,
REP BY ITS MANAGING PARTNER
A.K. SAHAYANATHAN

[PETITIONERS]

2 A.K. SAHAYANATHAN

Vs

VENKATA BASKARAN

[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 him by the learned Judicial Magistrate No.1, Gobichettipalayam Erode District in STC.No.458/2016 by judgment dated 11.09.2020 as Confirmed by the Appellate Court in CA.No.98/2020 on the file of the III Additional District and Sessions Judge Erode at Gobichettipalayam Erode District dated 12.08.2021 pending disposal of the above Crl.R.C.No.1010 of 2021 [CRL.MP.NO.13328/2021]

(ii) Grant exemption of surrender of the 2nd petitioner herein before the Learned III Additional District and Sessions Judge, Erode at Gobichettipalayam, Erode District on the date of Judgment in CA.No.98/2020 dated 12.08.2021 in Confirming the conviction and sentence passed by the learned Judicial Magistrate No.1, Erode at Gobiechettipalayam in STC.No.458/2016 by Judgement dated 11.08.2020 in respect of the offence u/s 138 of Negotiable Instruments Act and thus render justice.[CRL.MP.NO.13330/2021]



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 ARIVAZHAGAN, Advocate for the petitioner and of M/S.KARTHIK RAJA, Advocate on behalf of the Respondent the court made the following order:-

These Criminal Miscellaneous Petitions have been filed by the petitioners/accused, seeking suspension of sentence of imprisonment imposed by the order dated 11.09.2020 in S.T.C.No.458 of 2016 passed by the learned Judicial Magistrate No.1, Gobichettipalayam and confirmed by the judgment dated 12.08.2021 in C.A.No.98 of 2020 on the file of the learned III Additional District and Sessions Judge, Erode at Gobichettipalayam.

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

3. In the trial court judgment, for non-payment of the cheque amount in question, viz., Rs.5,00,000/- the petitioners/accused was 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.5,00,000/- (Rupees Five Lakhs Only) as compensation to the respondent/complainant. The petitioner had filed appeal in C.A.No.98 of 2020 before the III Additional District and Sessions Judge, Erode, Gobichettipalayam and the Appellate Court by order dated 12.08.2021 had dismissed the appeal and confirmed the conviction and sentence, against which, the present revision has been filed.

4. Mr.K.S.Karthik Raja, learned counsel for the petitioners takes notice for the respondent and submits that during the pendency of the appeal, the petitioner has already deposited Rs.1,00,000/- and is prepared to deposit the balance of 50% of the cheque amount viz., Rs.1,50,000/-. According to the learned counsel for the petitioner/accused, 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 balance of 30% of the cheque amount (Rs.5,00,000/-), namely, Rs.1,50,000/- (Rupees One Lakh Fifty 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 Judicial Magistrate, No.1, Erode, Gobichettipalayam.

(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. Post the matter on 18.01.2022 for final hearing.

-sd/-
21/12/2021

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 III ADDITIONA DISTRICT AND
SESSIONS JUDGE, ERODE AT GOBICHETTIPALAYAM.

2 THE JUDICIAL MAGISTRATE,
NO.I, GOBICHETTIPALAYAM, ERODE DISTRICT.

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE DISTRICT. [FOR INFORMATION]

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

+2 C.C. to M/S ARIVAZHAGAN Advocate on payment of necessary
charges SR.Nos.15239 & 15238

Order

in
CRL MP.Nos.13328 and 13330/2021
in
CRL RC.1010/2021

Date :21/12/2021

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

RW 21/12/2021