



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the First day of December Two Thousand Twenty One

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.12102 & 12103 of 2021

IN CRL.R.C.NO.847 of 2021

K.SHOBAN RAJ

[PETITIONER IN BOTH THE PETITIONS]

Vs

S.SWAMINATHAN

[RESPONDENT IN BOTH THE PETITIONS]

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

(i) To suspend the sentence and compensation imposed in C.A.No.42/2021 on the file of 1st Additional District Judge Salem, dated 16.09.2021 confirming the Judgment passed in S.T.C.No.191/2016 on the file of the Judicial Magistrate IV, Salem dated 08.04.2021, pending disposal of the Crl.R.C.NO.847 of 2021.
(CRL.M.P.No.12102/2021 in CRL.R.C.NO.847 OF 2021)

(ii) To waive the petitioner's while preferring Criminal Revision Petition against the judgment of conviction imposed by the 1st Additional District Judge Salem in C.A.No.42/2021 16.09.2021 confirming the Judgment in S.T.C.No.191/2016 on the file of the Judicial Magistrate IV, Salem dated 08.04.2021, pending disposal of the Crl.R.C.NO.847 of 2021.
(CRL.M.P.No.12103/2021 in CRL.R.C.NO.847 OF 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.M.APPAJICHARLES KAMALESH, Advocate for the petitioner, [IN BOTH THE PETITIONS] the court made the following order:-



The Criminal Miscellaneous Petition Crl.M.P.No.12102 of 2021 has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment and Crl.M.P.No.12103 of 2021 has been filed seeking to waive his surrender to undergo sentence of imprisonment, imposed by the order dated 08.04.2021 in S.T.C.No.191 of 2016 on the file of the Judicial Magistrate No.IV, Salem and confirmed by the judgment dated 16.09.2021 in C.A.No.42 of 2021 on the file of the I Additional District Judge, Salem.

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.9,50,000/- the petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo one year Simple Imprisonment and to pay the cheque amount of Rs.9,50,000/- to the complainant as compensation within one month from the date of the order and in default to undergo three months simple imprisonment.

4. 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 50% of the cheque amount (Rs.9,50,000/-), namely, Rs.4,75,000/- (Rupees Four Lakhs Seventy Five 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 IV, Salem.

(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 on 22.12.2021. Private notice is also permitted.

8. Post the matter on **22.12.2021** for reporting compliance.

-sd/-

01/12/2021

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 JUDICIAL MAGISTRATE,
NO.IV, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]



3 THE I ADDITIONAL DISTRICT
JUDGE, SALEM.

+1 C.C. to M/S.M.APPAJICHARLES KAMALESH, Advocate on payment of
necessary charges SR.NO.13819

Order

in
CRL MP.12102 & 12103/2021
in
CRL RC.847/2021

Date :01/12/2021

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

TA-01/12/2021