



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Nineteenth day of November Two Thousand Twenty One

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.11601 & 11600 of 2021

in

CRL.R.C.No.772 of 2021

BABU

[PETITIONER]

Vs

M.GOVINDASAMY

[RESPONDENT]

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

(i) grant an order of exemption from surrendering before the trial court in pursuance to the judgement dated 04.10.2021 passed in C.A.NO.39 of 2021 on the file of Learned I Additional District and Sessions Judge, Coimbatore by confirming the judgement dated 29.01.2021 in CC No.38/2013 on the file of the Learned Judicial Magistrate Mettupalayam and pass such further or other orders as this Hon`ble Court may deem fit and proper in the circumstances of the case and thus render justice [Crl.M.P.No.11601/2021]

(ii) suspend the sentence of conviction passed by the Learned Judicial Magistrate, Mettupalayam in C.C.No.38 of 2021 dated 29/01/2021 confirmed by the Learned I Additional District and Sessions Judge, Coimbatore in C.A.No.39 of 2021 dated 04/10/2021 against me pending disposal of the above Criminal Revision and thus render justice. [Crl.M.P.No.11600/2021]

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 E.D.SETHUPATHI, Advocate for the petitioner and the court made the following order:-

These Criminal Miscellaneous Petitions have been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed by the judgment, dated 04.10.2021 passed in C.A.No.39 of 2021 on the file of the I Additional District and Sessions Judge,



Coimbatore, confirming the judgment, dated 29.01.2021, made in C.C.No.38 of 2013 on the file of the Judicial Magistrate, Mettupalayam and to exempt the Petitioner/ Accused, from surrendering before the Trial Court, in connection with the conviction and sentence, imposed by the judgment, dated 29.01.2021, made in C.C.No.38 of 2013 on the file of the Judicial Magistrate, Mettupalayam, pending disposal of the Criminal Revision Case.

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 judgements, for non-payment of the cheque amount in question, viz. Rs.3,00,000/-, the Petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo three months Simple Imprisonment and to pay a sum of Rs.3,30,000/- (Rupees Three Laksh Thirty Thousand Only), as compensation to the Respondent/complainant, 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.3,00,000/-), namely, Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only) before the Trial Court, within four 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.

b)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, Mettupalayam.



c) 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.

d) The Petitioner/Accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every month, 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 of Cr.PC. 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.

e) 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. Post the matter after four weeks, for reporting compliance.

-sd/-

19/11/2021

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 JUDGE, COIMBATORE

2 THE JUDICIAL MAGISTRATE,
METTUPALAYAM



3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

+1 C.C. to M/S E.D.SETHUPATHI Advocate on payment of necessary
charges SR.No.13165

Order

in
CRL MP.11601&11600/2021

in
Crl.R.C.No.772/2021

Date :19/11/2021

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APN 23/11/2021