



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eighth day of December Two Thousand Twenty One

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.12525 & 12527 of 2021

IN CRL.R.C.No.898 of 2021

K.MANI

[PETITIONER/ACCUSED
IN ALL THE PETITIONS]

Vs

M.BALAKRISHNAN

[RESPONDENT/COMPLAINANT
IN ALL 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 confirmed by the Impugned order dated 06.08.2021 of the Hon'ble V Additional District and Session Court, Chennai in Crl.A.189/2019 while dismissing and consequentially confirming the judgment dated 12.04.2019 of Fast Track Court, Metorpolitan Magistrate Court-III Saidapet in C.C.No.3568/2013 under section 138 r/w 142 of Negotiable Instruments Act sentencing the petitioner to undergo simple imprisonment for 6 months and to pay twice the cheque amount as compensation u/s.357(3) of Crl.P.C., to the complainant, pending disposal of the main Crl.R.C.No.898 of 2021. (Crl.M.P.No.12525/2021 in Crl.R.C.No.898/2021)

(ii) To pass an order to exempt the petitioner from surrendering in pursuance to the sentence confirmed by the Impugned Order dated 06.08.2021 of the Hon'ble V Additional District and Session Court, Chennai in Crl.A.189/2019 while dismissing the appeal and consequentially confirming the judgment dated 12.04.2019 of Fast Track Court, Metorpolitan Magistrate Court-III Saidapet in C.C.No.3568/2013 under section 138 r/w 142 of Negotiable Instruments Act, pending disposal of the main Crl.R.C.No.898 of 2021. (Crl.M.P.No.12527/2021 in Crl.R.C.No.898/2021)



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 G.MOHANA KRISHNAN, Advocate for the petitioner, [IN BOTH THE PETITIONS] the court made the following order:-

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These miscellaneous petitions have been filed seeking to suspend the sentence of imprisonment imposed on the petitioner in judgment dated 06.08.2021 passed in C.A.No.189 of 2019 by the learned V Additional Sessions Judge, City Civil Court, Chennai, by confirming the judgment dated 12.04.2019 passed in C.C.No.3568 of 2013 by the learned Metropolitan Magistrate, Fast Track Court - III at Saidapet, Chennai-15 and to exempt the petitioner from surrendering before the trial Court, pending disposal of the criminal revision.

2 The petitioner is an accused and respondent is the complainant. The respondent/complainant had filed a private complaint under Section 200 of Cr.P.C. against the petitioner for the offence under Section 138 of Negotiable Instruments Act, (in short "the NI Act"), which was taken on file in C.C.No.3568 of 2013 by the learned Metropolitan Magistrate, Fast Track Court-III, Saidapet, Chennai. The learned Magistrate, after due enquiry, found the petitioner/accused guilty for the offence under Section 138 of NI Act and hence by judgment dated 12.04.2019, convicted the petitioner and sentenced him to undergo simple imprisonment for a period of six months and to pay double the amount of the cheque towards compensation to the complainant. Aggrieved against the said judgment of the trial Court, the petitioner had preferred an appeal in C.A.No.189 of 2019 and the learned V Additional Sessions Judge, City Civil Court, Chennai, after hearing both the counsel, by judgment dated 06.08.2021, dismissed the appeal and confirmed the judgment of conviction passed by the trial Court. Aggrieved against the concurrent judgment of conviction and sentence passed by the Courts below, the petitioner has preferred the present criminal revision before this Court along with these petitions.

3 Learned counsel appearing for the petitioner/accused would submit that the Trial Court had convicted the petitioner and the appellate Court has also confirmed the conviction and sentence passed by the trial Court. He would further submit that during pendency of the appeal, the petitioner had already deposited an amount of Rs.1,75,000/-, without prejudice, the petitioner is prepared to deposit balance amount of Rs.2,50,000/- and he would submit that the petitioner is sick and confined to bed and hence he seeks three weeks time to deposit the balance amount. The learned counsel would further submit that there are arguable grounds in the revision and that he would pray for suspension of sentence.



4 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 surrendering before the Trial Court, the suspension of sentence and bail are granted on the following conditions:

(a) The petitioner/Accused shall deposit 50% of the cheque amount, less the amount, if any already paid, before the Trial Court, within a period of 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 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 learned Metropolitan Magistrate, Fast Track Court - III, Saidapet, Chennai.

(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.

5 The Criminal Miscellaneous Petition stands ordered accordingly.



6 Notice to the respondent returnable in four weeks. Private notice is also permitted. Post the matter **after four weeks** for reporting compliance.

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-sd/-
08/12/2021

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 V ADDITIONAL DISTRICT
AND SESSIONS COURT, CHENNAI.

2 THE FAST TRACK METROPOLITAN MAGISTRATE,
COURT NO.III, SAIDAPET, CHENNAI-15.

3 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

+3 C.C. to M/S G.MOHANA KRISHNAN Advocate on payment of
necessary charges SR.NO.14373, 14374, 14375

Order

in
CRL MP.12525 & 12527/2021
in
CRL RC.898/2021

Date :08/12/2021

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

TA-10/12/2021