



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.12474 of 2021

IN CRL.R.C.NO.894 of 2021

V.B.THIYAGA MOORTHY

[PETITIONER/ACCUSED]

Vs

S.LOKESH

[RESPONDENT/COMPLAINAT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to suspend the sentence of 9 months simple imprisonment imposed against the petitioner by the Hon'ble XX Metropolitan Magistrate, Chennai in C.C.No.7751/2016 dated 05/11/2020 and confirmed by the Hon'ble V Additional Sessions Judge, City Civil Court in Crl.A.No. 116/2020 dated 10/11/2021 pending disposal of the main CRL.R.C.NO.894 of 2021 IN CRL.MP.NO.12474/2021.

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.PRABAKAR, Advocate for the petitioner the court made the following order:-

This miscellaneous petition has been filed seeking to suspend the sentence of imprisonment imposed on the petitioner in judgment dated 10.11.2021 passed in C.A.No.116 of 2020 by the learned V Additional Sessions Judge, City Civil Court, Chennai, by confirming the judgment dated 05.11.2020 passed in C.C.No.7751 of 2016 by the learned XX Metropolitan Magistrate, Egmore at Allikulam, Chennai, 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.7751 of 2016 by the learned XX Metropolitan Magistrate, Egmore at Allikulam, 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 05.11.2020, convicted the petitioner and sentenced him to undergo simple imprisonment for a period of nine months and to pay a



sum of Rs.8,85,000/- towards compensation to the complainant, i/d, to undergo simple imprisonment for a further period of three months. Aggrieved against the said judgment of the trial Court, the petitioner had preferred an appeal in C.A.No.116 of 2020 and the learned V Additional Sessions Judge, City Civil Court, Chennai, after hearing both the counsel, by judgment dated 10.11.2021, 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 the petition seeking suspension of sentence.

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.1,77,000/-, which is 20% of the cheque amount and he would submit that without prejudice, the petitioner is prepared to deposit balance 30% of the cheque amount, which is Rs.2,65,500/-. 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 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 XX Metropolitan Magistrate, Egmore at Allikulam, 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.

WEB COPY

(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.

-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 XX METROPOLITAN MAGISTRATE
EGMORE, ALLIKULAM, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE V ADDITIONAL SESSIONS
JUDGE, CITY CIVIL COURT, CHENNAI.

+1C.C. to M/S.M.PRABAKAR Advocate on payment of necessary charges SR.NO.14273

Order
in
CRL MP.12474/2021
in
CRL.RC.894/2021
Date :08/12/2021

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