



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Seventh day of December Two Thousand Twenty One

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION Nos.12627 and 12628 of 2021

IN CRL.RC.NO.911 of 2021

1 M/S.U.A.FOUNDATION [PETITIONERS/APPELLANTS/ACCUSED]
REPRESENTED BY ITS PROPRIETOR, M.UPENDRA

2 M.UPENDRA
S/O.MURALI, PROPRIETOR, M/S.U.A.FOUNDATION,

Vs

SANTHOSHKUMAR [RESPONDENT/COMPLAINANT]

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 in C.A.No.23 of 2018 by the Principal District Sessions Judge, Chengalpattu by judgment dated 06/10/2021 partly confirming the judgment of the Learned Judicial Magistrate, Fast Track Court(Magisterial Level), Alandur in C.C.No.441/2016 dated 28/05/2018 and pass such further or other orders as this Hon'ble Court may deem fit and proper and thus render justice.[IN CRL.M.P.No.12627/2021]

(ii) exempt petitioner from surrendering pursuant to the sentence imposed in C.A.No.23 of 2018 by the Principal District Sessions Judge, Chengalpattu by judgment dated 06/10/2021 partly confirming the judgment of the Learned Judicial Magistrate, Fast Track Court(Magisterial Level), Alandur in C.C.No.441/2016 dated 28/05/2018 pending disposal of the above CRL RC.911 of 2021 and thus render justice.[IN CRL.M.P.No.12628/2021]

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.SUNDER MOHAN, Advocate for the Petitioners 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 28.05.2018 in C.C.No.441 of 2016 on the file of the Judicial Magistrate, Fast Track Court (Magistrate Level), Alandur and confirmed by the judgment dated 06.10.2021 in C.A.No.23 of 2018 on the file of the Principal District Sessions Judge, Chengalpattu.

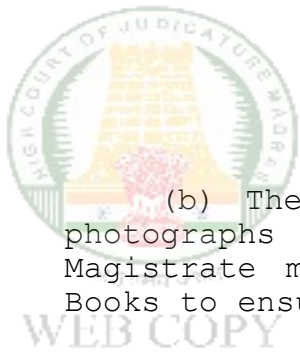
2. This Court heard the learned counsel for the petitioner and also perused the materials placed on record.

3. In and by both the impugned judgments, for non-payment of the cheque amount in question, viz., Rs.5,00,000/- 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 a sum of Rs.5,00,000/- as compensation to the respondent/complainant and in default to undergo simple imprisonment for a period of 30 days.

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.5,00,000), namely, Rs.2,50,000/- (Rupees Two Lakhs 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, Fast Track Court (Magistrate Level), Alandur.



(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. This Criminal Miscellaneous Petition stands ordered accordingly.

7. Notice to the respondent returnable by three weeks. Private notice is also permitted. Post the matter after three weeks for reporting compliance.

-sd/-
07/12/2021

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 PRINCIPAL DISTRICT
SESSIONS JUDGE, CHENGALPATTU.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT (MAGISTERIAL LEVEL),
ALANDUR.

3 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]



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

WEB COPY

+2 C.C. to M/S.SUNDER MOHAN Advocate on payment of necessary
charges SR.NO.14169 & 14170

Order

in

CRL MP.Nos.12627 and 12628/2021

in

CRL RC.911/2021

Date :07/12/2021

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

RW 07/12/2021