



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Tuesday, the Twenty First day of December Two Thousand Twenty One

WEB COPY

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA
CRIMINAL MISCELLANEOUS PETITION No.13303 of 2021

IN CRL.RC.NO.1004 OF 2021

G.GURUSAMY

[PETITIONER]

Vs

E.BALAGANGADHARAN

[RESPONDENT]

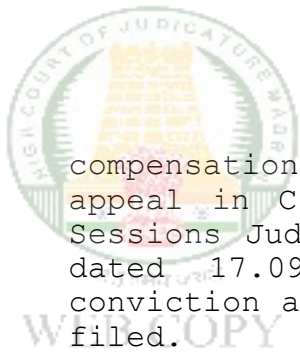
Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.1004 OF 2021 on the file of the High Court, the High Court will be pleased to suspend the sentence passed in Judgment and order dated 17.09.2021 in Crl.Appeal No.86/2019 on the file of IV Additional District and Sessions Judge at Coimbatore for Convicting the above appeal and confirming the order dated 01.02.2019 in C.C.No.1374/2017 on the file of Judicial Magistrate Fast Track Magistrate No.2, in Crl.RC.No.1004 of 2021.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.1004 OF 2021 on the file of the High Court and upon hearing the arguments of M/S.K.PRABHAKARAN, Advocate for the petitioner the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by the order dated 01.02.2019 in C.C.No.1374 pf 2017 passed by the learned Judicial Magistrate, Fast Track Magistrate No.2, Coimbatore and confirmed by the judgment dated 17.09.2021 in C.A.No.86 of 2019 on the file of the learned IV Additional District and Sessions Judge, Coimbatore.

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

3. In the trial court judgment, for non-payment of the cheque amount in question, viz., Rs.6,00,000/- the petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo six months Simple Imprisonment and to pay a sum of Rs.6,00,000/- (Rupees Five Lakhs Only) with interest at the rate of 6% per annum from the date of cheque as



compensation to the respondent/complainant. The petitioner had filed appeal in C.A.No.86 of 2019 before the IV Additional District and Sessions Judge, FTC No.2, Coimbatore the Appellate Court by judgment dated 17.09.2021 had dismissed the appeal and confirmed the conviction and sentence, against which, the present revision has been filed.

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 he may be enlarged on bail.

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 suspension of sentence and bail are granted on the following conditions:

(a) The petitioner/Accused shall deposit 50% of the cheque amount (Rs.6,00,000/-), namely, Rs.3,00,000/- (Rupees Three Lakhs 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, No.1, Coimbatore.

(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. Post the matter after four weeks for reporting compliance.

-sd/-

21/12/2021

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.1, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE. (FOR INFORMATION)

3 THE JUDICIAL MAGISTRATE,
FAST TRACK MAGISTRATE NO.2, COIMBATORE

4 IV ADDITIONAL DISTRICT AND
SESSIONS JUDGE, FTC NO.2, COIMBATORE.

5 IV ADDITIONAL DISTRICT AND
SESSIONS JUDGE, COIMBATORE.

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

C.C. to M/S.K.PRABHAKARAN Advocate on payment of necessary charges SR.15264

Order

in

CRL MP.13303/2021

IN CRL.RC.NO.1004 OF 2021

Date :21/12/2021

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

RVR 21/12/2021