



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Fifteenth day of December Two Thousand Twenty One

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.13028 of 2021

IN CRL.R.C.No.969 of 2021

R.BALAKRISHNAN

[PETITIONER]

Vs

SRI GOKULAM CHIT AND FINANCE COMPANY LTD.,
REPRESENTED BY POWER OF ATTORNEY,
S.SASIKUMAR,
A.V.COMPLEX, SOUTH CAR STREET,
TIRUCHENGODE TOWN AND TALUK,
NAMAKKAL DISTRICT.

[RESPONDENT]

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 judgement of conviction and sentence dated 27.11.2020, made in S.T.C.No.301/2018, passed by Judicial Magistrate (Fast Track Court), Tiruchengode, confirmed by the Principal District and Sessions Court, Namakkal, by its judgement dated 11.03.2021 made in C.A.No.83/2020 and enlarge the petition on bail.

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.B.JAWAHAR, 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 27.11.2020 in S.T.C.No.301 of 2018 passed by the Judicial Magistrate (Fast Track Court), Tiruchengode and confirmed by the judgment dated 11.03.2021 in C.A.No.83 of 2020 on the file of the Principal District and Sessions Court, Namakkal.



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

3. In and by the trial court judgment, for non-payment of the cheque amount in question, viz., Rs.17,45,000/- 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 directed to pay Rs.17,45,000/- as compensation and in default to undergo one month simple imprisonment. The petitioner had filed appeal in C.A.No.83 of 2020 before the learned Principal District and Sessions Judge, Namakkal and the Appellate Court, by judgment dated 11.03.2021, had dismissed the appeal and confirmed the conviction and sentence, against which, the present revision has been filed.

4. Learned Counsel appearing for the petitioner would submit that the cheque amount is Rs.17,45,000/- and at the stage of filing the Appeal, the petitioner had already deposited a sum of Rs.3,49,000/- which amounts to 20% of the cheque amount before the Appellate Court. He would further submit that 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 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) Despite the amount already deposited, the petitioner/Accused shall deposit 30% of the cheque amount namely, **Rs.5,23,500/- (Rupees five lakhs twenty three thousand and five hundred 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. 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), Tiruchengode.



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(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 five weeks for reporting compliance.

-sd/-
15/12/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL DISTRICT AND
SESSIONS COURT, NAMAKKAL.

2 THE JUDICIAL MAGISTRATE
(FAST TRACK COURT),
TIRUCHENGODE, NAMAKKAL.



3 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

C.C. to M/S.B.JAWAHAR Advocate on payment of necessary charges

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Order

in
CRL MP.13028/2021
in
CRL RC.969/2021

Date :15/12/2021

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TA-15/12/2021