



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Third day of December Two Thousand Twenty One

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION Nos.13423 and 13424 of 2021

in

Crl.R.C.No.1019 of 2021

SIVABALAN

[PETITIONER]

Vs

C.SELLAMUTHU GOUNDER

[RESPONDENT]

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 of imprisonment imposed on the petitioner in the judgment dated 19.08.2021 made in C.A.No.37 of 2017 on the file of the III Additional District and Sessios Court, Tiruppur at Dharapuram comfirming the judgment dated 04.03.2017 made in C.C.No.4 of 2012 on the file of the learned Judicial Magistrate, Dharapuram and enlarge the petitioner on bail pending disposal of the above Crl.R.C.No.1019 of 2021.[CRL.MP.NO.13423/2021]

(ii) grant an order of exemption from surrendering before the trial court in pursuance to the judgment dated 19.08.2021 made in C.A.No.37 of 2017 on the file of the III Additional District and Sessios Court, Tiruppur at Dharapuram comfirming the judgment dated 04.03.2017 made in C.C.No.4 of 2012 on the file of the learned Judicial Magistrate, Dharapuram and enlarge the petitioner on bail pending disposal of the above Crl.R.C.No.1019 of 2021.[CRL.MP.NO.13424/2021]



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.K.SUDHAKAR , Advocate for the petitioner 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 04.03.2017 made in C.C.No.4 of 2012 by the learned Judicial Magistrate, Dharapuram and confirmed by the judgment dated 19.08.2021 passed in C.A.No.37 of 2017 by the learned III Additional District and Sessions Court, Tirupur at Dharapur and exemption from surrendering before the trial court pending disposal of the above revision.

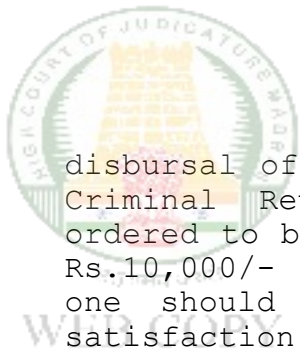
2. This Court heard the learned counsel for the petitioner and also perused the materials placed on record.

3. In and by both the impugned judgments, for non-payment of the cheque amount in question, viz., Rs.4,00,000/-, the petitioner/accused was convicted and sentenced for the offence under Section 138 and 142 of the Negotiable Instruments Act, to undergo one year simple imprisonment and on appeal in C.A.37 of 2021, the Appellate Court by judgment dated 19.08.2021, 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 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.4,00,000/-), namely, Rs.2,00,000/- (Rupees Two Lakhs Only) before the Trial Court, within 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 Judicial Magistrate, Dharapuram.

(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. These Criminal Miscellaneous Petitions stand ordered accordingly.

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

-sd/-

23/12/2021

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 III ADDITIONAL DISTRICT
AND SESSIONS COURT, TIRUPPUR AT DHARAPURAM.

2 THE JUDICIAL MAGISTRATE,
DHARAPURAM.



3 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR DISTRICT. [FOR INFORMATION]

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

+1 C.C. To M/S.K.SUDHAKAR Advocate on payment of necessary
charges SR.NO.15464

Order

in
CRL MP.Nos.13423 and 13424/2021
in
CRL RC.1019/2021

Date :23/12/2021

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

RW 23/12/2021