



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

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

WEB COPY

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA
CRIMINAL MISCELLANEOUS PETITION No.13665 of 2021

IN CRL RC.1046/2021

D.SIVA SUBRAMANIAM

[PETITIONER/ACCUSED]

Vs

K.S.GOPALAKRISHNAN

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL RC.No.1046/2021 on the file of the High Court, the High Court will be pleased to suspend the sentence passed in C.C. No. 989 of 2011, dated 28.03.2019 on the file of the Metropolitan Magistrate, Fast Track Court - III, at saidapet, as confirmed in C.A.No. 183 of 2019, dated 20.09.2021 on the file of the I Additional Sessions Judge, City Civil Court, Chennai, pending disposal of the above CRL RC.No.1046/2021

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL RC.No.1046/2021 on the file of the High Court and upon hearing the arguments of M/S. G.MURUGENDRAN, 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 judgment dated 28.03.2019 made in C.C.No.989 of 2011 by the learned Metropolitan Magistrate, Fast Track Court III, Saidapet and confirmed by the judgment dated 20.09.2021 passed in C.A.No.183 of 2019 by the learned I Additional Sessions Judge, City Civil Court, Cehnnai 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 judgment of the trial court, for non-payment of the cheque amount in question, viz., Rs.12,55,000/- 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 double the amount of the cheque as compensation to the respondent/complainant. The petitioner had filed appeal in C.A.No.183 of 2019 before the learned I Additional District Sessions Judge, City Civil Court, Chennai and the Appellate



Court by judgment dated 20.09.2021, 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 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) The petitioner/Accused shall deposit 50% of the cheque amount (Rs.12,55,000/-), namely, Rs.6,27,500/- (Rupees Six Lakhs Twenty Seven Thousand Five Hundred 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 Metropolitan Magistrate, FTC III, Saidapet.

(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. 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 METROPOLITAN MAGISTRATE
FAST TRACK COURT III,
SAIDAPET, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 I ADDITIONAL SESSIONS JUDGE,
CITY CIVIL COURT, CHENNAI

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

C.C. to M/S. G.MURUGENDRAN Advocate on payment of necessary charges SR.15551

Order

in

CRL MP.13665/2021

in

CRL RC.1046/2021

Date :23/12/2021

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

RVR 23/12/2021