



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

Wednesday, the Twelfth day of January Two Thousand Twenty Two

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PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA
CRIMINAL MISCELLANEOUS PETITION Nos.213 & 2014 of 2022
CRL.R.C.No.21 of 2022

1 POLO KNIT WEAR
REP BY ITS MANAGING PARTNER,
PUDUR ROAD,
N.MUTHUKUMAR,
72, K.N.P.SUBRAMANI NAGAR,
TIRUPPUR-641 608.

[PETITIONER / APPELLANT / ACCUSED]

2 N.MUTHUKUMAR
MANAGING PARTNER OF POLO KNIT WEAR.

3 SENTHIL.R.
PARTNER OF POLO KNIT WEAR.

Vs

A.THIRUPPATHI RAJ
S/O. ARUMUGAM,
PROPRIETOR OF SUPER PACKAGING,
OLD SILLUKUVAR PATTI, NILLAKOTTAI TK,
DINDIGUL.

[RESPONDENT / COMPLAINANT]

Petition praying that in the circumstances stated therein the High Court will be pleased to

(i) Suspend the sentence imposed on the petitioners by the Learned Principal Sessions Judge, Tiruppur made in C.A.No. 102 of 2018, dated 11.11.2021 confirming the Judgement of conviction passed by the Learned Judicial Magistrate, Fast Track Court at Magisterial level, Tiruppur in C.C.No. 21 of 2013 and enlarge the petitioner on Bail till the disposal of the above mentioned Crl.R.C.No. 21 of 2022. [IN CRL.M.P.No.213 of 2022]

(ii) Exempt the petitioners from surrendering before the Trial Court, Learned Judicial Magistrate, Fast Track Court at Magisterial Level, Tiruppur, for the above said reasons and pass such or further orders tht this Hon'ble Court. [IN CRL.M.P.No.214 of 2022]



Order: This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S. GANESH RAJAN, Advocate for the Petitioner the court made the following order:-

WEB COPY These Criminal Miscellaneous Petitions have been filed by the petitioner/accused, seeking suspension of sentence imposed on the petitioners by the Learned Principal Sessions Judge, Thiruppur, made in C.A.No.102 of 2018, dated 11.11.2021 confirming the judgment of conviction passed by the Learned Judicial Magistrate, Fast Track Court at Magisterial Level, Tiruppur in C.C.NO.21 of 2013 and enlarge the petitioners on bail till the disposal of the above revision and exempt the petitioners from surrendering before the Trial Court.

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. 1,80,000/-, the petitioners/A1 and A3 were convicted for the offence under Section 138 of NI Act and A2 is sentenced to undergo Six months Simple Imprisonment and to pay a fine of Rs. 60,000/- in default to undergo Simple Imprisonment for two months. A1 being a firm is sentenced to pay a fine of Rs.30,000/- and A3 is sentenced to undergo Simple imprisonment for six months and to pay fine of Rs.90,000/- in default to undergo simple imprisonment for two months. The petitioner had filed CrI.A.No.102 of 2018 before Principal Session Judge, Tiruppur and the Appellate Court had confirmed the sentence and against which the present revision has been filed.

4. Learned counsel for the petitioner would submit that the first petitioner is a partnership firm and the second and third petitioners are Managing partner and partner of the first petitioner. According to the learned counsel for the petitioners, 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 petitioners have got a fair chance of succeeding in the Criminal Revision Case and hence, the substantive sentence imposed against the Petitioners may be suspended and the petitioners 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 petitioners, 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, exemption from surrendering and bail are granted on the following conditions:



(a) The petitioners shall deposit 50% of the cheque amount (Rs.1,80,000/-), namely, Rs.90,000/- (Rupees Ninety 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 petitioners 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 Learned Judicial Magistrate, Fast Track Court at Magisterial Level, Tiruppur

(b) The petitioners 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 petitioners 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 Petitioners, depositing the said amount, it is open to the Trial Court to commit the petitioners into custody for undergoing the sentence.

6. These Criminal Miscellaneous Petitions stands ordered accordingly. Post the matter after three weeks for reporting compliance.

-sd/-
12/01/2022

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 SESSIONS JUDGE,
TIRUPPUR.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT AT MAGISTERIAL LEVEL,
TIRUPPUR.

3 THE CHIEF JUDICIAL MAGISTRATE,
TIRUPPUR DISTRICT (FOR INFORMATION).

COPY TO

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

+2 C.C. to M/S. GANESH RAJAN Advocate on payment of necessary
charges SR.NOS.622 & 623.

Order

in
CRL MP.Nos.213 & 214/2022
in
CRL.R.C.21/2022

Date :12/01/2022

From 7.2.2001 the Registry is issuing certified
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INBA-12/01/2022