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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2022

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.Nos.1154 & 1156 of 2022

in Crl.R.C.No.119 of 2022

V.Loganathan

... Petitioner

..Vs..

P.Edwin

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 397 and 401 of Cr.P.C, to suspend the sentence imposed on the petitioner in C.C.No.443 of 2018 in the order of conviction dated 06.08.2019, passed by the learned Metropolitan Magistrate (Fast Track Court-II), Egmore, Chennai at Allikulam and confirmed by the learned XVIII Additional Sessions Judge, City Civil Court, Chennai in C.A.No.319 of 2019 in his Judgment dated 17.04.2021 and exempt the petitioner surrendering before the Trial Court.

For petitioner : Mr.G.P.Sivamohan

COMMON ORDER

(These cases have been heard through Video Conferencing)

These Criminal Miscellaneous Petitions have been filed by the petitioner/accused, seeking suspension of sentence imposed on the petitioner in C.C.No.443 of 2018 in the order of conviction dated 06.08.2019, passed by the learned Metropolitan Magistrate (Fast Track Court-II), Egmore, Chennai at Allikulam and confirmed by the learned XVIII Additional Sessions Judge, City Civil Court, Chennai in C.A.No.319 of 2019 in his Judgment dated 17.04.2021 and exempt the petitioner 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.2,50,000/- 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 to pay the fine amount of Rs.2,50,000/- as compensation to the complainant and in default to undergo three months Simple Imprisonment. The petitioner had filed appeal in C.A.No.319 of 2019 before the learned XVIII Additional Sessions Judge, City Civil Court, Chennai and the Appellate Court by judgment dated 17.04.2021, had dismissed the appeal and confirmed the conviction and sentence, against which, the present revision has been filed.

4. Learned counsel for the petitioner would submit that he has already deposited 20% of the cheque amount before the Trial Court. 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 suspension of sentence, exemption from surrendering and bail are granted on the following conditions:

(a) The petitioner/Accused shall deposit remaining **Rs.75,000/- (Rupees Seventy Five 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 and the 20% of the cheque amount already deposited 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 learned Metropolitan Magistrate (Fast Track Court-II), Egmore, Chennai at Allikulam, within 15 days from the date of commencement of the court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically and on further conditions that:



(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.

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

-sd/-

04/02/2022

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 METROPOLITAN MAGISTRATE
(FAST TRACK COURT-II),
EGMORE, CHENNAI AT ALLIKULAM.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE XVIII ADDITIONAL SESSIONS JUDGE, CITY
CIVIL COURT, CHENNAI



Copy To:

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

+1 C.C. to M/S.G.P.SIVAMOHAN Advocate on payment of necessary
charges SR.NO.2021

Order

in
CRL MP.1154 & 1156/2022

in
CRL RC.119/2022

Date :04/02/2022

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TA-04/02/2022