



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.No.157 of 2022

in

Crl.R.C.No.18 of 2022

K.Gunasekaran

... Petitioner

Vs.

E.Krishnamoorthy

...Respondent

PRAYER: The Criminal Revision Petition is filed under Section 397(1) of the Code of Criminal Procedure, to enlarge the petitioner on Bail by suspending the sentence confirmed by Judgment dated 25.06.2020 in C.A.No.291 of 2018 on the file of III Additional District and Sessions Judge, Coimbatore confirming the Judgment dated 14.06.2018 passed by the learned Judicial Magistrate Fast Track Court No.1 @ ML, Coimbatore in C.C.No.407 of 2016 till the disposal of the main revision.

For Petitioner : Mr.P.Ramesh Kumar

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence suspending the sentence confirmed by Judgment dated 25.06.2020 in C.A.No.291 of 2018 on the file of III Additional District and Sessions Judge, Coimbatore confirming the Judgment dated 14.06.2018 passed by the learned Judicial Magistrate Fast Track Court No.1 @ ML, Coimbatore in C.C.No.407 of 2016 till the disposal of the main revision and to enlarge the petitioner on Bail.

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. 5,00,000/-, the petitioner was convicted and sentenced for the offence under Section 138 of NI Act to undergo Six months Simple Imprisonment and to pay a compensation of Rs.5,00,000/- by the accused within two months from the date of copy of the Judgment and in default to undergo sentence of Two months Simple Imprisonment. The petitioner had filed appeal in CrI.A.No.291 of 2018 before the III Additional District and Sessions Judge, Coimbatore and the Appellate Court by judgment dated 25.06.2020, 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 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 50% of the cheque amount (Rs.5,00,000/-), namely, Rs.2,50,000/- (Rupees Two Lakhs Fifty 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 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 No.1 @ ML, Coimbatore.

(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 three weeks for reporting compliance.

-sd/-
11/01/2022

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 III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
COIMBATORE.

2 THE JUDICIAL MAGISTRATE
FAST TRACK COURT NO.1 @ ML,
COIMBATORE.

3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL JAIL, COIMBATORE.



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

+1C.C. to M/S. P.RAMESH KUMAR Advocate on payment of necessary
charges SR.No.520

Order
in
CRL MP.157/2022
in
CRL.R.C.18/2022
Date :11/01/2022

From 7.2.2001 the Registry is issuing certified
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CSK 12/01/2022