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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.Nos.3869 and 4559 of 2022

in Crl.R.C.No.378 of 2022

1.M/s.Hari Kamal Apparels,
Represented by its Partner R.Chandra Sekar

2.R.Chandra Sekar

...Petitioners /
Accused
[in both Crl.M.Ps]

versus

G.Balachandar

...Respondent /
Complainant
[in both Crl.M.Ps]

COMMON PRAYER: Criminal Miscellaneous Petitions have been filed under Sections 389 (1) & 482 of Cr.P.C., praying to suspend the sentence imposed upon the petitioners by the learned Judicial Magistrate No.I, Thiruppur in S.T.C.No.5874 of 2010 on 31.07.2019, by confirming the judgment passed by the learned II Additional District and Sessions Judge, Thiruppur, in C.A.No.86 of 2019 on 27.10.2021 and enlarge the petitioners and to exempt the petitioners from surrendering before the trial Court.

For Petitioners : Mr.S.Mohan Kumar
[in both Crl.M.Ps]

COMMON ORDER

These Criminal Miscellaneous Petitions have been filed by the petitioners/accused, seeking suspension of sentence imposed upon the petitioners in C.A.No.86 of 2019 dated 27.10.2021 by the learned II Additional District and Sessions Judge, Thiruppur, by confirming the judgment and sentence passed in S.T.C.No.5874 of 2010 dated 31.07.2019 by the learned Judicial Magistrate No.I, Thiruppur and enlarge the petitioners on bail and seeking to exempt the petitioners from surrendering before the trial court.



2. The petitioners herein are the accused in S.T.C.No.5874 of 2010 on the file of the learned Judicial Magistrate No.I, Thiruppur. They were found guilty of the offence under Section 138 of N.I. Act and they have been convicted and sentenced as under:

Offence	Sentence
Section 138 of NI Act	Rigorous Imprisonment for a period of one year and to pay Rs.3,00,000/- as compensation to the complainant, in default, to undergo Simple Imprisonment for 2 months

Aggrieved against the same, the petitioners had filed appeal in C.A.No.86 of 2019 and the learned II Additional District and Sessions Judge, Thiruppur, by order dated 27.10.2021 had dismissed the appeal and confirmed the conviction and sentence, against which the present revision has been filed.

3. According to the learned counsel for the petitioners/accused, there are arguable points available in the Criminal Revision Case and the petitioners/accused had got a fair chance of succeeding in the Criminal Revision Case and hence, the substantive sentence imposed against the petitioners/accused may be suspended and the petitioners may be exempted from surrendering before the trial Court. He would submit that the petitioners are ready to abide the condition imposed by this Court.

4. Heard the learned counsel appearing for the petitioners and also perused the materials placed on record.

5. Considering the facts and circumstances of the case, also considering the submissions of the learned counsel for the petitioners, further this revision is not likely to be taken for final hearing in the near future, 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/accused shall deposit 50% of the cheque amount (Rs.3,00,000/-), to the credit of S.T.C.No.5874 of 2010 before the trial court i.e. the learned Judicial Magistrate No.I, Thiruppur, within a period of 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 petitioners/accused are ordered to be released on bail, on each of them executing a bond for a sum of



Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Thiruppur;

(b) The petitioners/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; and

(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 appeal and if they are not able to appear before the trial Court on any day, they 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 their absence, as directed by the trial Court.

6. With the above directions, these Criminal Miscellaneous Petitions are ordered.

7. Post the matter on 06.06.2022 "for reporting compliance".

-sd/-

04/04/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

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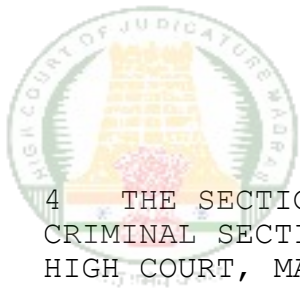
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.I, THIRUPPUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUPPUR DISTRICT [FOR INFORMATION]

3 THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THIRUPPUR.



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

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C.C. to M/S. S.MOHAN KUMAR Advocate on payment of necessary charges

Order
in
CRL MP.NOs.3869&4559/2022
in
CRL.RC.378/2022
Date :04/04/2022

From 7.2.2001 the Registry is issuing certified
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CSK 05/04/2022