



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.Nos.5137 & 5138 of 2022

in Crl.R.C.No.502 of 2022

Ashraf,
S/o.Makkarakutty

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

versus

Devaraj,
S/o.Selvam

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

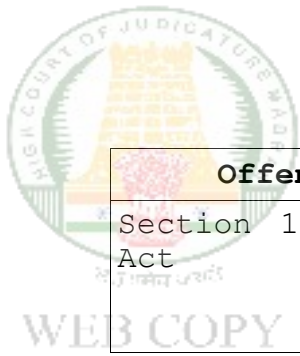
COMMON PRAYER: Criminal Miscellaneous Petitions have been filed under Sections 397 (1) r/w 439 & 482 of Cr.P.C., praying to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate No.I, Ponneri, in S.T.C.No.527 of 2017 dated 28.10.2020, by confirming the judgment passed by the learned IV Additional District and Sessions Judge, Tiruvallur at Ponneri, in C.A.No.32 of 2020 dated 04.12.2021 and enlarge the petitioner and to exempt the petitioner from surrendering before the trial Court.

For Petitioner : Mr.R.Ganesh Kumar
[in both Crl.M.Ps]

C O M M O N O R D E R

These Criminal Miscellaneous Petitions have been filed by the petitioner/accused, seeking suspension of sentence imposed upon the petitioner in C.A.No.32 of 2020 dated 04.12.2021 by the learned IV Additional District and Sessions Judge, Tiruvallur at Ponneri, by confirming the judgment and sentence passed in S.T.C.No.527 of 2017 dated 28.10.2020 by the learned Judicial Magistrate No.I, Ponneri and enlarge the petitioner on bail and seeking to exempt the petitioner from surrendering before the trial court.

2. The petitioner herein is the accused in S.T.C.No.527 of 2017 on the file of the learned Judicial Magistrate No.I, Ponneri. He was found guilty of the offence under Section 138 of NI Act and has been convicted and sentenced as under:



Offence	Sentence
Section 138 of NI Act	Simple Imprisonment for a period of 1 year and to pay compensation of Rs.27,00,000/- to the complainant within 30 days, in default, to undergo Simple Imprisonment for 60 days

Aggrieved against the same, the petitioner had filed appeal in C.A.No.32 of 2020 and the learned IV Additional District and Sessions Judge, Tiruvallur at Ponneri, by judgment dated 04.12.2021 had dismissed the appeal and confirmed the conviction and sentence, against which the present revision has been filed.

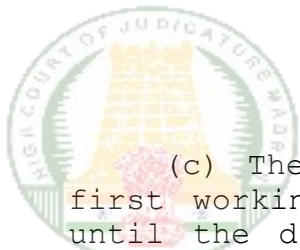
3. According to the learned counsel for the petitioner/accused, there are arguable points available in the Criminal Revision Case and the petitioner/accused has got a fair chance of succeeding in the Criminal Revision Case and hence, the substantive sentence imposed against the petitioner/accused may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

4. Heard the learned counsel appearing for the petitioner 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 petitioner, 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 petitioner/accused shall deposit 50% of the cheque amount (Rs.27,00,000/-), to the credit of S.T.C.No.527 of 2017 before the trial court i.e. the learned Judicial Magistrate No.I, Ponneri, 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.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, Ponneri;

(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; and



(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 appeal 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.

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

7. Post these matters on 16.06.2022 "for reporting compliance".

-sd/-

28/04/2022

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 IV ADDITIONAL DISTRICT AND
SESSIONS JUDGE, TIRUVALLUR AT PONNERI.

2 THE JUDICIAL MAGISTRATE,
NO.I, PONNERI.

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR DISTRICT. [FOR INFORMATION]

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

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

Order

in

CRL MP.Nos.5137 & 5138 /2022
in Cr1.R.C.No.502 of 2022

Date :28/04/2022

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

RW 29/04/2022