



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2022

CORAM:

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

Crl.M.P.Nos.11545 & 11547 of 2021

in

Crl.R.C.No.760 of 2021

P. Dhandapani ... Petitioner in both petitions

..Vs..

R.Kandasamy ... Respondent in both petitions

PRAYER: Criminal Miscellaneous Petitions filed under Section 397 (1) and 482 of Cr.P.C, to suspend the sentence imposed in the Judgment dated 04.09.2021 passed in CA.No.77 of 2016 on the file of III Additional District and Sessions, Judge, Thiruppur at Dharapuram confirming the sentence imposed in the judgment dated 08.06.2016 in C.C.No.357 of 2011 on the file of Judicial Magistrate No.I, Udumalpet pending disposal of the above revision and exempt the petitioner from surrendering before the Trial Court.

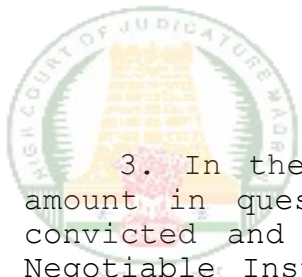
For petitioner in both petitions : Ms.N.Premalatha

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 in the Judgment dated 04.09.2021 passed in CA.No.77 of 2016 on the file of III Additional District and Sessions, Judge, Thiruppur at Dharapuram confirming the sentence imposed in the judgment dated 08.06.2016 in C.C.No.357 of 2011 on the file of Judicial Magistrate No.I, Udumalpet pending disposal of the above revision and exempt the petitioner 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.5,00,000/- 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.1,000/-. The petitioner had filed appeal in C.A.No.77 of 2016 before the Learned III Additional District and Sessions Judge, Tiruppur at Dharapuram and the Appellate Court by judgment dated 04.09.2021, 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 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/- viz., 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 No.I, Udumalpet, 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.



(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/-
28/01/2022

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 JUDICIAL MAGISTRATE,
NO.I, UDUMALPET.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION].

3 III ADDITIONAL DISTRICT AND
SESSIONS JUDGE, TIRUPPUR AT DHARAPURAM.



+3 C.C. to R.NALLIYAPPAN
charges SR.NOS.1395, 1396 & 1397

Advocate on payment of necessary

WEB COPY

Order
in
CRL MP.11545 & 11547/2021
in
CRL RC.760/2021

Date :28/01/2022

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

JPA 31/01/2022