



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2022

CORAM:

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

Crl.M.P.Nos.13867 & 13868 of 2021

in

Criminal Revision Case No.1077 of 2021

M/S. Shreepavi constructions

Rep. By its proprietor Mr.S.Alaghesan

S/o.K.Shanmugam, No.5/451, Pari Road,

Mogappair East, Chennai - 600 037.

... Petitioner in both M.Ps

..Vs..

M/S.MVM Builders and Promoters

Rep. By its proprietor Mr.B.Lakshmi Narasimhan

S/o.Mr.V.G.Babu Rao, Having office at

No.25, Thiruvassagam 2nd Street,

Sri Balaji Nagar, Pattabiram,

Chennai- 600 072.

... Respondent in both M.Ps

PRAYER: Criminal Miscellaneous petitions filed under Section 397(1) & 482 of Cr.P.C to suspend the sentence imposed by the Learned Fast Track Court, Magisterial Level, Thiruvallur in S.T.C No. 116/2016 dated 30.07.2018 and confirming the judgment and sentence by the Learned I Additional District and Sessions Judge, Tiruvallur in C.A.No. 143/2018 dated 28.10.2021 pending disposal of the revision on the file of this Hon'ble Court and to exempt the petitioner from surrendering.

For Petitioner : Mr.L.Sivakumar in both M.Ps

O R D E R

These Criminal Miscellaneous Petitions have been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by the order dated 30.07.2018 in S.T.C No. 116/2016 passed by the Learned Fast Track Court, Magisterial Level, Thiruvallur and confirmed by the judgment dated 28.10.2021 in C.A.No. 143/2018 on the file of the Learned I Additional District and Sessions Judge, Tiruvallur and seeking to 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.

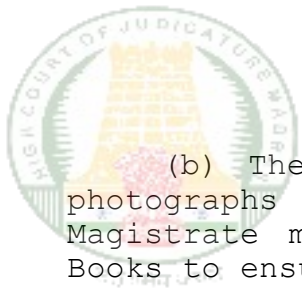


3. In the trial court judgment, for non-payment of the cheque amount in question, viz., Rs.19,44,030/- the petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo one and half year Simple Imprisonment and to pay a fine amount of Rs.19,44,030/- to the respondent/complainant within 30 days from the date of copy of the order and in default to pay, to undergo three month simple imprisonment. The petitioner had filed appeal in C.A.No. 143/2018 before the Learned I Additional District and Sessions Judge, Tiruvallur and the Appellate Court by judgment dated 28.10.2021 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 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. He would submit that normally in similar matters this Court directs the petitioner to deposit 50% of the cheque amount before the Trial Court and in this case, the petitioner had deposited 20% of the cheque amount at the appellate stage and he is prepared to deposit the balance 30% of the cheque amount 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 30% of the cheque amount (Rs.19,44,030/-), namely, Rs.5,83,209/- (Rupees Five Lakhs Eighty Three Thousand Two Hundred and Nine 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 Fast Track Court, Magisterial Level, Thiruvallur.



(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 four weeks for reporting compliance.

-sd/-

04/01/2022

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 FAST TRACK COURT,
MAGISTERIAL LEVEL, THIRUVALLUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)

3 I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, TIRUVALLUR



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

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C.C. To M/s.L.Sivakumar Advocate on payment of necessary charges
SR.237

Order

in

Crl.M.P.Nos.13867 & 13868 of 2021

in

CRL RC.1077/2021

Date :04/01/2022

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

RVR 10/01/2022