



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2022

CORAM:

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

Crl.M.P.Nos.14212 & 14213 of 2021

in

Criminal Revision Case No.1112 of 2021

G.Balaji

... Petitioner in both M.Ps

..Vs..

R.Senthilvel

... 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 Judicial Magistrate No.1, Pollachi in S.T.C.No.3425 of 2015 dated 13.02.2020 and confirming the judgment and sentence by the I Additional District and Sessions Judge, Coimbatore in Crl.A.No.119/2020 dated 17.09.2021 pending disposal of the above revision and to exempt the petitioner from surrendering.

For Petitioner

: Mr.R.Nandhakumar
in both M.Ps

ORDER

Today, when the learned counsel for the petitioner would submit that some discrepancies have kept in the order on account of clerical error and thereby the cheque amount and the corresponding 50% amount has to be modified accordingly. In view of the same, the order of this Court dated 06.01.2022 shall be read as follows:

"These Criminal Miscellaneous Petitions have been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by the order dated 13.02.2020 passed in S.T.C.No.3425 of 2015 by the Learned Judicial Magistrate No.1, Pollachi and confirmed by the judgment dated 17.09.2021 in Crl.A.No.119/2020 on the file of the Learned I Additional District and Sessions Judge, Coimbatore 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.9,00,000/- the petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo three months Simple Imprisonment. The petitioner had filed appeal in C.A.No.119 of 2020 before the Learned I Additional District and Sessions Judge, Coimbatore and the Appellate Court by judgment dated 17.09.2021, 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.9,00,000/-), namely, **Rs.4,50,000/- (Rupees One Lakh 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 own 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, Pollachi 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.



(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/-
21/01/2022

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, POLLACHI.

2 THE CHIEF JUDICIAL MAGISTRATE,
COIMBATORE DISTRICT (FOR INFORMATION).



3 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
COIMBATORE.

+1 C.C. to M/S. R.NANDHA KUMAR Advocate on payment of necessary
charges SR.NO.965

Order

in
CRL MP.14212 & 14213/2021
in
CRL RC.1112/2021

Date :21/01/2022

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

TA-21/01/2022