

Crl.M.P.No.1040 of 2016
in
Crl.R.C.No.167 of 2016

C.S.KARNAN.J.

The petitioner was convicted and sentenced to undergo Rigorous Imprisonment for one year and imposed a fine of Rs.300/- in default to undergo two weeks Simple Imprisonment for the alleged offence under Section 408 read with Section 109 of IPC by the learned Judicial Magistrate No.I, Chengalpattu made in C.C.No.262 of 2002, dated 28.11.2011. The conviction and sentence imposed by the trial Court was confirmed by the learned Additional District Sessions Judge, Chengalpattu. Hence, the petitioner seeks suspension of sentence.

2. Learned counsel submits that there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in material particulars between the evidence of the prosecution witnesses. It is further represented that there is no precondition requiring the petitioner's surrender or being in confinement in availing the relief of suspension of sentence under Section 397 Cr.P.C.in exercise of revisional powers by this Court. The decisions of the Honourable Apex Court in **BIHARI PRASAD**

SINGH VS STATE OF BIHAR AND ANOTHER (2000 SCC (Cri) 1380) and that of the ***IBRAHIM VS STATE OF KERALA (1979 KLT 857)*** are relied upon in this regard.

3. Heard learned Government Advocate [Crl.side] on the submissions made by learned counsel for petitioner.

4. The above decisions have been relied upon time and again by this Court towards holding that in moving a revision against conviction, the accused need not surrender and undergo confinement before seeking the relief of suspension of sentence pending disposal of the Criminal Revision.

5. Taking into consideration the submissions of learned counsel for petitioner and that the revision is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein may be granted the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond in a sum of

Rs.10,000/- each (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of learned Judicial Magistrate I, Chengalpattu, within a period of two weeks from the date of receipt of a copy of this order and on further condition that petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending revision.

01.02.2016

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C.S.KARNAN,J.,

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