

Crl.M.P.No.226 of 2016

in

Crl.R.C.No.39 of 2016

C.T.SELVAM, J

Petitioner/Accused was convicted for offence under Sections 337, 338 and 304 A IPC and sentenced to undergo 1 month S.I for offence u/s.337 IPC, 3 months S.I for offence u/s.338 IPC and 1 year S.I and fine of Rs.1000/- i/d. 2 months S.I for offence under Section 304A IPC by learned Judicial Magistrate VII, Coimbatore, under judgment dated 30.01.2014 in C.C.No.159 of 2011. Trial Court directed that sentences to run concurrently. The conviction and sentence imposed by trial Court was confirmed by learned Principal District and Sessions Judge, Coimbatore, under judgment in C.A.No.17 of 2014 dated 16.11.2015. Hence, petitioner seeks suspension of sentence.

2.Learned counsel for petitioner submits that there are several infirmities and inconsistencies in the prosecution case. It is contended that there are contradictions in material particulars in 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.

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 VII, Coimbatore 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.

12.01.2016

(2/4)

gpa

Note: Issue order copy on 18.01.2016

C.T.SELVAM, J

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Crl.R.C.No.226 of 2016
in
Crl.R.C.No.39 of 2016

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Crl.M.P.No.409 of 2016
in
Crl.R.C.No.39 of 2016

C.T.SELVAM, J

Petitioner who stands convicted for offences u/s. 337, 338 and 304 A IPC seeks exemption from surrendering to custody as a pre condition for consideration of his bail application moved in the revision case preferred by him before this Court.

2. Considering the facts and circumstances of the case and the earlier decision of this Court in the case of ***Easwaramurthy Vs. N.Krishnaswamy (2006) CRI.L.J.4105*** which in turn relied on the decision of the Apex Court in ***Bihari Prasad Singh Vs. State of Bihar (2000) SCC (Cri) 1380***, this Court considers it appropriate to allow this petition as prayed for. Accordingly, the petitioner shall not be required to surrender before the trial Court as per order of the appellate Court dated 16.11.2015, pending disposal of the main revision.

12.01.2016
(3/4)

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