

Crl.M.P.No.431 of 2016

in

Crl.R.C.No.65 of 2016

C.T.SELVAM, J

Petitioner faced trial in C.C.No.177 of 2008 on the file of learned Judicial Magistrate, Arni. Under judgment dated 06.01.2015, the trial Court convicted the petitioner for offence u/s.304-A IPC and sentenced him to 6 months R.I. and fine of Rs.5,000/- i/d 1 month R.I. for offence u/s.304-A IPC. The conviction and sentence imposed by trial Court was confirmed by learned Sessions Judge, Tiruvannamalai, under judgment in C.A.No.3 of 2015 dated 30.11.2015. 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, Arni, 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

(2/3)

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Petitioner who stands convicted for an offence u/s.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 30.11.2015 pending disposal of the main revision.

12.01.2016
(3/3)

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