

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.735 of 2016

Velmurugan

... Petitioner/Accused - 3

Vs.

State Rep. by,
The Inspector of Police,
Erode Taluk Police Station,
Erode District.
Crime No.144 of 2015.

... Respondent/Complainant

Prayer: Criminal Revision Case filed under Section 397 r/w. 401 of the Code of Criminal Procedure, against the order passed by the learned I Additional Sessions Judge, Erode, in Crl.M.P.No.92 of 2016, dated 27.04.2016.

For Petitioner : Mr.B.Veeraragavan

For Respondent : Mr.M.Mohamed Riyaz,
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case is directed against the order dated 27.04.2016 passed by the learned I Additional Sessions Judge, Erode, in Crl.M.P.No.92 of 2016, in Crl.A.No.82 of 2016, dismissing the petition filed by the petitioner for suspending the sentence.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent.

3. The learned counsel appearing for the petitioner would contend that the petitioner is A.3. The petitioner/A.3 and two others were convicted by the learned Judicial Magistrate No.1, Erode, for the offences under Sections 458 and 392 of IPC and sentenced to undergo three years rigorous imprisonment for each count and to pay a fine of Rs.100/-. Being aggrieved by the order of conviction, A.1 and A.3 have preferred an

appeal before the District and Sessions Court, Erode. At the time of filing the appeal, the petitioner/A.3 and the first accused have also filed a petition in Crl.M.P.No.92 of 2016 for suspending the sentence imposed by the learned Judicial Magistrate No.1, Erode, in C.C.No.37 of 2015 till the disposal of the criminal appeal and the said petition was dismissed by the learned I Additional Sessions Judge, Erode. The learned counsel for the petitioner would further contend that if the petitioner is released on bail, he will abide by any conditions imposed by this Court and also prepared to furnish solvent sureties as imposed by this Court. In view of the above circumstances, the learned counsel for the petitioner would contend that the order passed by the learned I Additional Sessions Judge, Erode, may be set aside and accordingly, the petitioner may be enlarged on bail with some conditions.

4. The learned Government Advocate (Crl.Side) would contend that the petitioner and other accused were found guilty under Sections 458 and 392 of IPC and sentenced by the learned Judicial Magistrate No.1, Erode. In this case, even during the pendency of the trial also, the accused were not granted bail and they are in custody and hence, he prayed that the criminal revision case may be dismissed.

5. It is an admitted fact that the present petitioner and two other accused are in custody during the pendency of the trial. Further, the learned Judicial Magistrate No.1, Erode, clearly found that the charge against A.3/petitioner is proved and awarded punishment and the criminal appeal preferred by him is also pending. In view of the above facts and circumstances, since the accused are in custody even during the pendency of the trial, this Court is not inclined to suspend the sentence imposed on the petitioner. Hence, the criminal revision case is liable to be dismissed.

6. Accordingly, this Criminal Revision Case is dismissed with a direction to the learned I Additional Sessions Judge, Erode, to dispose of the Criminal Appeal in C.A.No.82 of 2016, within a period of one month from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Jr1

To

1. The I Additional Sessions Judge,
Erode.
2. The Judicial Magistrate No.1,
Erode.
3. The Inspector of Police,
Erode Taluk Police Station,
Erode District.
4. The Chief Judicial Magistrate,
Erode. (For Information)
5. The Public Prosecutor,
High Court, Madras.

+2cc's to Mr.B.Veeraragavan, Advocate, S.R.No.34823

Cr1.R.C.No.735 of 2016

CTK(CO)
CA(01/07/2016)



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