



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Seventeenth day of February Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice V.S.RAVI

CRL MP(MD) Nos.1446 and 1447 of 2016
IN
CRL RC(MD) No.81 of 2016

SUBBAIYASAMI NAIDU

... PETITIONER/PETITIONER
IN BOTH THE PEITITIONS

Vs

N.SIVANANDHAM

... RESPONDENT/RESPONDENT
IN BOTH THE PETITIONS

Prayer in CRL MP(MD). 1446/ 2016 IN CRL RC(MD) No.81 of 2016 :

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to Suspend the sentence passed in Crl.A.No.28 of 2015 on the file of the 1 Additional District Court, PCR Trichy dated 24.11.2015 confirming the order of C.C. no.188 of 2012 on the file of the Judicial Magistrate No.1, Trichy dated 20.3.2015 and enlarge the petitioner on bail granting disposal of the above Criminal Revision Petition.

Prayer in CRL MP(MD). 1447/ 2016 IN CRL RC(MD) No.81 of 2016:

To exempt the surrendering for the sentence passed in Crl.A.No.28 of 2015 on the file of the 1 Additional District Court, PCR Trichy dated 24.11.2015 confirming the order of C.C. no.188 of 2012 on the file of the Judicial Magistrate No.1, Trichy dated 20.3.2015 and enlarge the petitioner on bail granting disposal of the above Criminal Revision Petition.

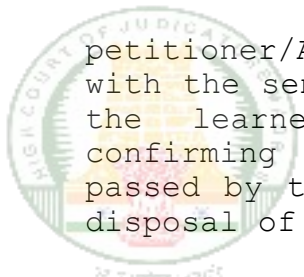
Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S T.A.PUNITHAN, Advocate for the petitioner in both the petitions the court made the following order:-

Crl.M.P.(MD) No.1446 of 2016 is filed by the petitioner/revision petitioner/sole accused to suspend the sentence imposed on him in C.A.No.28 of 2015 dated 24.11.2015 by the learned I Additional District Judge (PCR), Tiruchirappalli, confirming the judgment dated 20.03.2015 made in C.C.No.188 of 2012 passed by the learned Judicial Magistrate No.1, Tiruchirappalli.

2.It is specifically stated in the affidavit enclosed with the petition that the petitioner/revision petitioner/Accused has the fair chance of success in the revision and there is prima facie case in his favour and due to his family circumstances and his livelihood, he is not in a position to surrender before the Court below.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The petitioner has filed another application in Crl.M.P.(MD) No.1447 of 2016 to pass an order exempting the petitioner/revision



petitioner/Accused from surrendering before the lower Court in connection with the sentence imposed on him in C.A.No.28 of 2015 dated 24.11.2015 by the learned I Additional District Judge (PCR), Tiruchirappalli, confirming the judgment dated 20.03.2015 made in C.C.No.188 of 2012 passed by the learned Judicial Magistrate No.1, Tiruchirappalli, pending disposal of the criminal revision.

4.It is specifically pointed out in the grounds of revision that the Courts below have failed to appreciate the evidence of the respondent herein and also the facts and circumstances as well as the materials of the petitioner, in the proper perspective and hence, the conviction and consequential sentence imposed on the petitioners, by the lower appellate Court is erroneous and in view of that, the said judgment is liable to be revised.

5.It is further pointed out in the grounds of revision that the Courts below have failed to consider Ex.A6, the lawyer notice sent by the petitioner to the respondent regarding the alleged theft of the signed blank cheques and pronotes and the Courts below ought not to have come to the conclusion that the signature in the cheque has not been disputed and hence, the presumption is always arisen in favour of the complainant.

6.On a Perusal of the materials available on records, it is found that there are certain force in the points raised in the grounds of revision. From the submissions made on behalf of the petitioner, this Court finds that there are substantial and arguable points in the present case. Further, it is also seen that if certain stringent conditions are imposed, there is no chance for the accused to abscond. Further, after hearing the main revision alone, the correct and proper finding in the main case can be given.

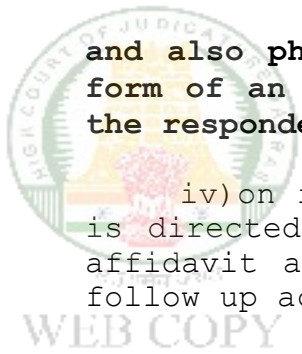
7.Further, it is seen that various points raised in the grounds of revision require an indepth/threadbare examination at the time of final hearing of the main revision and also on going through the various grounds raised in the grounds of revision at this stage, this Court, to prevent aberration of justice, suspends the substantial sentence of imprisonment alone pending disposal of the criminal revision with the following conditions:

8.Accordingly, to show the bonafide of the petitioner to conduct the case in accordance with law, the petitioner is directed to deposit a sum of Rs.2,00,000/- (Rupees two lakhs only) to the credit of C.C.No.188 of 2012 on the file of the learned Judicial Magistrate No.1, Tiruchirappalli, within a period of four weeks from today. On such deposit, without prejudice to the rights of both the parties,

i)the petitioner/Appellant/Accused shall be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for a likesum to the satisfaction of the Judicial Magistrate No.I, Tiruchirappalli;

ii)the petitioner shall appear before the said Court once in a month viz., first working day of every month until further orders, failing which the said Court is directed to inform about the details of failure committed by the petitioners in complying with the said conditions, to the Registry of this Court, forthwith.

iii)the petitioner/Accused shall furnish his present full details of his residential address along with the copies of the family ration card/Aadhar Card/voter ID card issued by the Election Commission of India



and also phone numbers(mobile/landline) if any to the said Court in the form of an affidavit, after serving an advance true copy of the same to the respondent; and

iv)on receipt of the true copy of the said affidavit, the respondent is directed to verify the veracity of the particulars given in the said affidavit and also liberty is granted to respondent to take appropriate follow up action, in accordance with law.

v)the said deposit amount of Rs.2,00,000/- to be made by the petitioner herein, within the period of one month from today shall not be withdrawn by any one and the same shall be kept in court deposit, until further orders.

9.For the above mentioned facts and circumstances, Crl.M.P.(MD) No.1447 of 2016 is allowed and the petitioner/revision petitioner/Accused is exempted from surrendering before the lower Court in connection with the sentence imposed on him in C.A.No.28 of 2015 dated 24.11.2015 by the learned I Additional District Judge (PCR), Tiruchirappalli, confirming the judgment dated 20.03.2015 made in C.C.No.188 of 2012 passed by the learned Judicial Magistrate No.1, Tiruchirappalli. pending disposal of the criminal revision.

sd/-
17/02/2016

(**)Further, one week further time is extended to deposit the amount of Rs.2,00,000/- by the petitioner.

Sd/-
23.03.2016

(*) (**)Corrected order issued as per order of this Court dated 23.03.2016.

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

To be substituted the order copy already despatched on 23/02/2016.

1. THE I ADDITIONAL DISTRICT COURT, (PCR)
TRICHY.

2. THE JUDICIAL MAGISTRATE NO I, TRICHY.

3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY.

+ 2 CC TO MR.C.VAKEESWARAN, ADVOCATE IN SR NO. 9277, 9278

ORDER
IN
CRL MP(MD) Nos.1446 and 1447 of 2016
IN
CRL RC(MD) No.81 of 2016
Date :17/02/2016

ARUL

TE/PM-MP/SAR-I : 22/02/2016 : 3P/6C
<https://hcservices.ecourts.gov.in/hcservices/>
PA/AN-MP/AR I/24.03.2016/3P/6C