



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

Tuesday, the Eighth day of March Two Thousand Sixteen

WEB COPY

PRESENT

The Hon`ble Mr Justice V.S.RAVI

CRL MP(MD) Nos.1656 and 1657 of 2016

IN

CRL RC(MD) No.100 of 2016

S.SAROJA

...PETITIONER/PETITIONER/ACCUSED NO.2
CRL MP(MD) Nos.1656 and 1657 of 2016
IN CRL RC(MD) No.100 of 2016

Vs

THE STATE REP.BY
THE SUB INSPECTOR OF POLICE
CENTRAL CRIME BRANCH,
TUTICORIN

...RESPONDENT/RESPONDENT/COMPLAINANT
IN CRL MP(MD) Nos.1656 and 1657 of 2016
IN CRL RC(MD) No.100 of 2016

PRAYER IN CRL MP(MD) No.1656 of 2016:

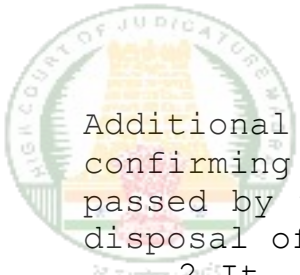
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the execution of sentence by granting bail in C.A. No.26 of 2015 dated 18.11.2015 on the file of the 2nd Additional Sessions Judge, Tuticorin, Tuticorin District in **(*)C.C.No.33/2003** dated 15.4.2015 on the file of the Judicial Magistrate No.2, Tuticorin.

PRAYER IN CRL MP(MD) No.1657 of 2016:

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to exempt from surrender before the court to take the judgment in C.A. No.26 of 2015 dated 18.11.2015 on the file of the 2nd Additional Sessions Judge, Tuticorin, Tuticorin District in **(*)C.C.No.33/2003** dated 15.4.2015 on the file of the Judicial Magistrate No.2, Tuticorin.

Order : These petitions coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S S.SENTHIL SANKARANATHA KUMAR, Advocate for the petitioner in both the cases, and of MR.P.KANDASAMY, Government Advocate on behalf of the Respondents in both the cases, the court made the following order:-

<https://hcservices.ecourts.gov.in/hcservices/>
Crl.M.P.(MD).No.1656 of 2016, is filed by the petitioner/Revision petitioner/A2 to suspend the sentence imposed on her in C.A.No.26 of 2015, dated 18.11.2015, by the learned II



Additional District Sessions Judge, Tuticorin, Tuticorin District, confirming the judgment dated 15.04.2015 made in **(*)C.C.No.33/2003**, passed by the learned Judicial Magistrate No.II, Tuticorin, pending disposal of the revision.

2.It is clearly stated in the affidavit enclosed with the petition that the respondent police has registered a case against the petitioner/accused No.2 for the alleged offence punishable under Sections 414 and r/w 381 of I.P.C.

3.The petitioner has filed another application in CrI.M.P.(MD). No.1657 of 2016 to pass an order exempting the petitioner/Revision petitioner/accused No.2 from surrendering before the lower Court in connection with the sentence imposed on her in C.A.No.26 of 2015, dated 18.11.2015, by the learned II Additional District Sessions Judge, Tuticorin, Tuticorin District, confirming the judgment dated 15.04.2015 made in **(*)C.C.No.33/2003**, passed by the learned Judicial Magistrate No.II, Tuticorin, pending disposal of the revision.

4.Further, in the grounds of revision, it is pertinently pointed out that both Courts have failed to see that the prosecution has not proved the case beyond reasonable doubts. Further, it is reported that in order to estimate the value of the stolen articles, the Auditor has not at all been examined by the trial Court. Further, no entrustment has been proved by the prosecution. Further, the prosecution has failed to recover the ledger and auditor report for proving the specification of stolen ornaments and specific date of occurrence. Further, it is pointed out that there must be the knowledge of the accused that they have received the properties that are stolen. As far as A2 is concerned, in order to prove her residence, she has filed copy of Voter ID NWK0280511 and also Adhar Card No.426625452014.

5.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.

6.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 sentence pending disposal of the criminal revision with the following conditions:

i)the petitioner/Revision petitioner/Accused No.2 shall be released on bail on her executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties for a like sum to the satisfaction of the learned Judicial Magistrate No.2, Tuticorin.



ii)the petitioner/Revision petitioner/Accused No.2 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 petitioner in complying with the said conditions, to the Registry of this Court, forthwith.

iii)the petitioner/Revision petitioner/accused No.2 shall furnish her present full details of her residential address along with the copies of the family ration card/Aadhar Card/Voter Id issued by the Election Commission of India and also phone number (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 the respondent to take appropriate follow up action, in accordance with law.

7.For the above mentioned facts and circumstances, Crl.M.P. (MD).No.1657 of 2016 is allowed and the petitioner/Revision petitioner/Accused No.2 is exempted from surrendering before the lower Court in connection with the sentence imposed on her in C.A.No.26 of 2015, dated 18.11.2015, by the learned II Additional District Sessions Judge, Tuticorin, Tuticorin District, confirming the judgment dated 15.04.2015 made in **(*)C.C.No.33/2003**, passed by the learned Judicial Magistrate No.II, Tuticorin, pending disposal of the revision.

sd/-
08/03/2016

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**(*)Amended as per order dated.30.03.2016
and made in Crl.MP(MD)No.2566/2016
in Crl.RC(MD)No.100 of 2016.**

Sub-Assistant Registrar (C.S.)

TO

(*)To be substituted order already despatched.

1 THE JUDICIAL MAGISTRATE NO.2,TUTICORIN.
2 DO THRO'THE CHIEF JUDICIAL MAGISTRATE,TUTICORIN.
3 THE II ADDITIONAL DISTRICT SESSIONS JUDGE TUTICORION.
4 THE SUB INSPECTOR OF POLICE,CENTRAL CRIME BRANCH, TUTICORIN.
5 THE ADDL. PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/S S.SENTHIL SANKARANATHA KUMAR, Advocate SR.18094

ORDER IN

CRL MP(MD) Nos.1656 and 1657 of 2016

IN CRL RC(MD) No.100 of 2016

Date :08/03/2016