



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

Thursday, the Tenth day of March Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice V.S.RAVI

CRL MP(MD) Nos.2014 AND 2015 of 2016
IN
CRL RC(MD) No.128 of 2016

M.K.G. SELVAKUMAR

... REVISION PETITIONER / APPELLANT

Vs

RAMAIAH

... RESPONDENT / RESPONDENT

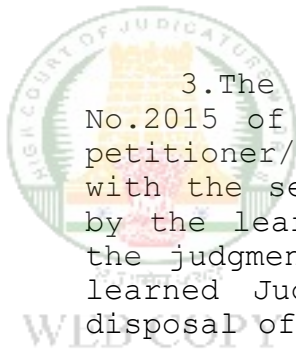
Prayer in CRL MP(MD).2014/2016: Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner by Judgment dated 22.07.2015 in C.A.No. 22/2014 on the file of the Principal District Sessions Court, Theni confirming the conviction and sentence made in Judgment dated 30.07.2013 in S.T.C.No. 6 of 2012 on the file of the Judicial Magistrate, Fast Track Court, Uthamapalayam and pending disposal of the Crl.R.C.

Prayer in CRL MP(MD).2015/2016: Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to exempt the petitioner from surrendering before the trial court pursuant to the confirmation of conviction in C.A.No. 22/2014 on the file of the Principal District Sessions Court, Theni by judgment dated 22.07.2015, which has confirmed the conviction in S.T.C.No. 6 of 2012 on the file of the Judicial Magistrate, Fast Track Court, Uthamapalayam and pending disposal of the Criminal Revision petition by judgment dated 30.07.2013.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.P.SENGUTTARASAN, Advocate for the petitioner and the court made the following order:-

Crl.M.P.(MD) No.2014 of 2016 is filed by the petitioner/revision petitioner/sole accused to suspend the sentence imposed on him in C.A.No.22 of 2014 dated 22.07.2015 by the learned Principal District and Sessions Court, Theni, confirming the judgment dated 30.07.2013 made in S.T.C.No.6 of 2012 passed by the learned Judicial Magistrate, Fast Track Court, Uthamapalayam, pending disposal of the revision.

2.It is specifically stated in the affidavit enclosed with the petition that during the trial and also during the pendency of appeal, the petitioner/revision petitioner/accused has got the benefit of bail and also the petitioner/revision petitioner/accused has appeared before the Court concerned without any fail. It is further submitted in the affidavit that the petitioner/revision petitioner/Accused has the fair chance to appear in the revision and there is the 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.



3.The petitioner has filed another application in CrI.M.P.(MD) No.2015 of 2016 to pass an order for exempting the petitioner/revision petitioner/Accused from surrendering before the lower Court in connection with the sentence imposed on him in C.A.No.22 of 2014 dated 22.07.2015 by the learned Principal District and Sessions Court, Theni, confirming the judgment dated 30.07.2013 made in S.T.C.No.6 of 2012 passed by the learned Judicial Magistrate, Fast Track Court, Uthamapalayam, pending disposal of the revision.

4.It is specifically pointed out in the grounds of revision that the lower Court has failed to appreciate that in a case involving punishment of imprisonment, the opportunity to cross examine the witness ought to be given to the accused and in this case, such opportunity has been refused to the revision petitioner. In fact, the opportunity to examine the complainant ought to have been given to the petitioner, so as to enable the petitioner to bring out the real facts and the same has been denied to him. Also, it is reported that viewed from any angle, the conviction and sentence imposed on the revision petitioner is erroneous.

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. It is also stated that the fine amount has been already paid by the petitioner. 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.

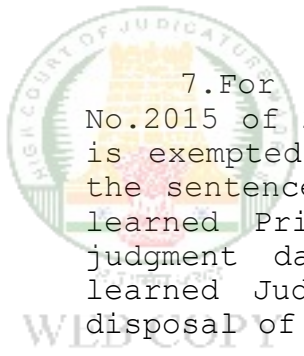
6.Further, it is seen that various points raised in the grounds of revision require an indepth/threadbare examination at the time of final hearing of the main revision and also on going through the various grounds raised in the grounds of revision at this stage, this Court, to prevent aberration of justice,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

i)the petitioner/revision petitioner/Accused shall be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate, Fast Track Court, Uthamapalayam.

ii)the petitioner/revision petitioner/Accused 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 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 shall 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.



7. For the above mentioned facts and circumstances, Crl.M.P.(MD) No.2015 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.22 of 2014 dated 22.07.2015 by the learned Principal District and Sessions Court, Theni, confirming the judgment dated 30.07.2013 made in S.T.C.No.6 of 2012 passed by the learned Judicial Magistrate, Fast Track Court, Uthamapalayam, pending disposal of the revision.

sd/-
10/03/2016

/ TRUE COPY /

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

TO

1. THE PRINCIPAL DISTRICT SESSION COURT, THENI.
2. THE JUDICIAL MAGISTRATE, FAST TRACK COURT,
UTHAMAPALAYAM

+2 C.C. to M/S P.SENGUTTARASAN Advocate SR.No.13635 & 13636

ORDER
IN
CRL MP(MD) Nos.2014 & 2015 of 2016
IN
CRL RC(MD) No.128 of 2016
Date :10/03/2016

Arul
SH/SKS-RR/AR-I:14.03.2016:3P/5C