



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

Tuesday, the Twenty Ninth day of March Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice V.S.RAVI

CRL MP(MD) Nos.2679 to 2681 of 2016

IN

CRL RC(MD) No.194 of 2016

RAJENDRAN

... PETITIONER/PETITIONER/
APPELLANT/ACCUSED IN ALL THE PETITIONS

Vs

V.VIYAKULARAJ

... RESPONDENT/RESPONDENT/
RESPONDENT/COMPLAINANT IN ALL THE PETITIONS

PRAYER IN CRL MP(MD)NO.2679/2016:

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to exempting petitioner's from being surrendered before the Learned Judicial Magistrate,Valliyoor,Tirunelveli, Tirunelveli District in connection with sentence imposed on me by the Learned 1st Additional District and Sessions Judge, Tirunelveli District by means of judgement dated 12.01.2016 made in Crl.A. No.59 of 2013 by confirming the conviction and sentence imposed by the Learned Judicial Magistrate,Valliyoor, Tirunelveli made in C.C.No.298 of 2013 dated 06.09.2013 pending disposal of the above Criminal Revision petition.

Prayer in CRL MP(MD)No.2680/2016 :

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 petitioner's by the Learned 1st Additional District and sessions Judge, Tirunelveli District made in C.A No.59 of 2013 dated 12.01.2016 confirming the sentence imposed on me in C.C. No.298 of 2013 dated 06.09.2013 passed by the learned Judicial Magistrate,Valliyoor, Tirunelveli, Tirunelveli District pending disposal of the above Criminal revision petition.

Prayer in CRL MP(MD)No.2681/2016 :

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the payment of compensation of a sum of Rs.40,674/- having been imposed by the learned 1st additional District and Sessions Judge, Tirunelveli dated 12.01.2016 made in C.A.No.59 of 2013 in C.C. No.298 of 2013 on the Learned Judicial Magistrate, Valliyoor, Tirunelveli, Tirunelveli District to the respondent herein pending disposal of the



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

Crl.M.P.(MD) No.2680 of 2016 is filed by the petitioner/revision petitioner/sole accused to suspend the sentence imposed on him in C.A.No.59 of 2013 dated 12.01.2016 by the learned I Additional District and Sessions Judge, Tirunelveli District, filed as against the judgment dated 06.09.2013 made in C.C.No.298 of 2013, by the learned Judicial Magistrate, Valliyoor, pending disposal of the revision.

2.The petitioner has filed another application in Crl.M.P.(MD) No.2679 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.59 of 2013 dated 12.01.2016 by the learned I Additional District and Sessions Judge, Tirunelveli District, filed as against the judgment dated 06.09.2013 made in C.C.No.298 of 2013, by the learned Judicial Magistrate, Valliyoor, pending disposal of the revision.

3.The petitioner has filed another application in Crl.M.P.(MD) No.2681 of 2016, to suspend the payment of compensation of a sum of Rs.40,674/- having been imposed on him in C.A.No.59 of 2013 dated 12.01.2016 by the learned I Additional District and Sessions Judge, Tirunelveli District, filed as against the judgment dated 06.09.2013 made in C.C.No.298 of 2013, passed by the learned Judicial Magistrate, Valliyoor, pending disposal of the revision.

4.It is specifically stated on behalf of the petitioner 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 of success 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.

5.It is clearly stated in the affidavit enclosed with the petition that the case of the respondent/complainant is that the petitioner has borrowed a sum of Rs.1,30,000/- from him and subsequently, the petitioner issued three cheques on various dates viz., 14.05.2008, 14.06.2008 for a sum of Rs.1,46,674/- and Rs.40,674/- respectively. It is further stated that the trial Court directed the petitioner to pay a sum of Rs.81,348/- as compensation to the respondent, but, the learned first Additional District and Sessions Judge, Tirunelveli, by the Judgment dated 12.01.2016 made in C.A.No.59 of 2013, reduced the compensation amount to Rs.40,674/-.

6.It is pointed out in the ground of revision that the reasons given by the trial Court and the appellate Court are not sound and the judgment passed by the Courts below are not sustainable in law and also on facts.

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7.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 there is prima facie case in favour of 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.

8. 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 is directed to deposit a sum of Rs.40,674/- (Rupees forty thousand and six hundred and seventy four only) before the learned Judicial Magistrate, Valliyoor to the credit in C.C.No.298 of 2013, within a period of one month from today and the learned Judicial Magistrate, Valliyoor is directed to deposit the said amount in any one of the nationalised banks, initially for a period of one year and thereafter, it shall be renewed periodically, until further orders. It is made clear that the said amount should not be disbursed to any one, until a direction is issued by this Court.

ii) On such deposit, and also 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, Valliyoor;

iii) 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.

iv) 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

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

9. For the above mentioned facts and circumstances, CrI.M.P.(MD) No.2681 of 2016 is disposed of accordingly and CrI.M.P.(MD) No.2679 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.59 of 2013 dated 12.01.2016 by the learned I Additional District and Sessions Judge, Tirunelveli District, filed as against the judgment dated 06.09.2013 made in C.C.No.298 of



2013, by the learned Judicial Magistrate, Valliyoor, pending disposal of the revision.

sd/-
29/03/2016

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

TO

- 1 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, TIRUNELVELI.
- 2 DO-THRO' THE PRINCIPAL SESSIONS JUDGE, TIRUNELVELI.
- 3 THE JUDICIAL MAGISTRATE, VALLIYOOR.
- 4 DO-THRO' THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.

+1cc to M/S.S.RAMAKRISHNAN, Advocate in SR.No.17656

ORDER
IN
CRL MP(MD) Nos.2679 to 2681 of 2016
IN
CRL RC(MD) No.194 of 2016
Date :29/03/2016

PA/JGB-DP/AR I/01.04.2016/4P/6C