

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED: 17.08.2017****CORAM****THE HONOURABLE MR. JUSTICE R. SURESH KUMAR****CrI.R.C.No.1028 of 2017**

P.Ravi Chandran ... Petitioner

Vs.

1. The State by Public Prosecutor,
Coimbatore.

2. R.Kanagaraj ... Respondents

Criminal Revision filed under Section 397 and 401 Cr.P.C. To set aside the order passed by the Learned Principal District and Sessions Judge Court, Coimbatore in C.M.P.No.1589 of 2017 in C.A.No.174 of 2017 dated 06.07.2017 by allowing this Criminal Revision Petition.

For Petitioner : Mr.S.Nagarajan

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor**ORDER**

This revision case has been filed against the order passed by the Principal District and Sessions Judge, Coimbatore in C.M.P.No.1589 of 2017 in C.A.No.174 of 2017 dated 06.07.2017.

2.The petitioner herein had been convicted by the trial Court for the offence punishable under Section 138 of the Negotiable Instruments Act by order dated 09.06.2017 made in C.C.No.36 of 2014 by the Judicial Magistrate, Fast Track Court, Magisterial Level-I, Coimbatore.

3.On the date of pronouncement of the said judgment, the petitioner did not appear before the trial Court and therefore, the trial Court had issued a Non Bailable Warrant to secure the petitioner for execution of the conviction.

4.As against the said judgment and conviction passed by the trial Court, the petitioner has preferred an appeal in C.A.No.174 of 2017 before the Appellate Court i.e., Principal District and Sessions Judge, Coimbatore, where the petitioner had also filed C.M.P.No.1589 of 2017, whereby the petitioner sought for suspension of sentence imposed against him by the trial Court.

5.The learned Appellate Judge, after considering the said aspect, that the petitioner did not present before the trial Court at the time of pronouncement of the judgment and also the fact that

Non Bailable Warrant has also been issued to secure the person for the execution of sentence has not inclined to accept the plea of the petitioner to suspend the sentence instead the learned judge has dismissed the said petition by the present order dated 06.07.2017, which is impugned herein, as against which the present revision has been filed.

6.I have heard Mr.S.Nagarajan, learned counsel appearing for the petitioner as well as Mr.C.Iyyapparaj, learned Additional Public Prosecutor appearing for the respondent.

7.In fact, the trial Court by the said order of conviction, convicted the petitioner under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for a period of six months and also directed to pay a compensation of Rs.3,00,000/- (Rupees Three lakhs only) within a period of two months from the date of the judgment, failing which, the accused shall undergo default sentence of Simple Imprisonment for a period of two months.

8.Since, the petitioner has already been suffered with the said punishment of conviction as well as the compensation and though he has filed an appeal against the said judgment, the petitioner not

as a matter of right, can seek suspension of sentence that too in a situation, where the petitioner had not appeared before the trial Court on the date of pronouncement of the judgment where the learned judge has also issued Non bailable warrant which is pending against the petitioner.

9. The learned counsel for the petitioner submits that because of health reasons, the petitioner could not appear before the trial Court on the date of pronouncement of the judgment and only thereafter, he immediately preferred an appeal where he filed appeal to suspend the sentence, the first appellate Court has rejected the same without considering the said aspect as to what reason the petitioner has not made his presence on the date of pronouncement of the judgment. Even if such a plea is taken by the petitioner, considering the facts and circumstances of the case, where the petitioner has already been convicted and also he had been directed to pay a compensation of Rs.3,00,000/- (Rupees Three lakhs only) to the complainant/respondent, this Court is of the view that the impugned order can be interfered only on certain terms.

10. In that view of the matter, the following orders are passed in this Criminal Revision Case.

1) The impugned order is set aside and the substantial sentence imposed on the petitioner by the trial Court is suspended on condition that the petitioner shall pay a sum of Rs.1,00,000/- (Rupees One lakh only) in the credit of C.C.No.36 of 2014 within a period of four weeks from the date of receipt of a copy of this order. By surrendering himself before the said Court and on making such deposit, the Lower Court shall release the petitioner on bail by satisfying with the execution of bail bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties for a like sum.

2) The petitioner shall also appear before the first appellate Court for every hearing until further orders is passed, during the pendency of the appeal.

With these directions, the Criminal Revision Case is ordered to the terms as indicated above.

17.08.2017

Index:yes/no
Internet:yes/no

AT

To

1.The Principal District and Sessions Judge Court,
Coimbatore.

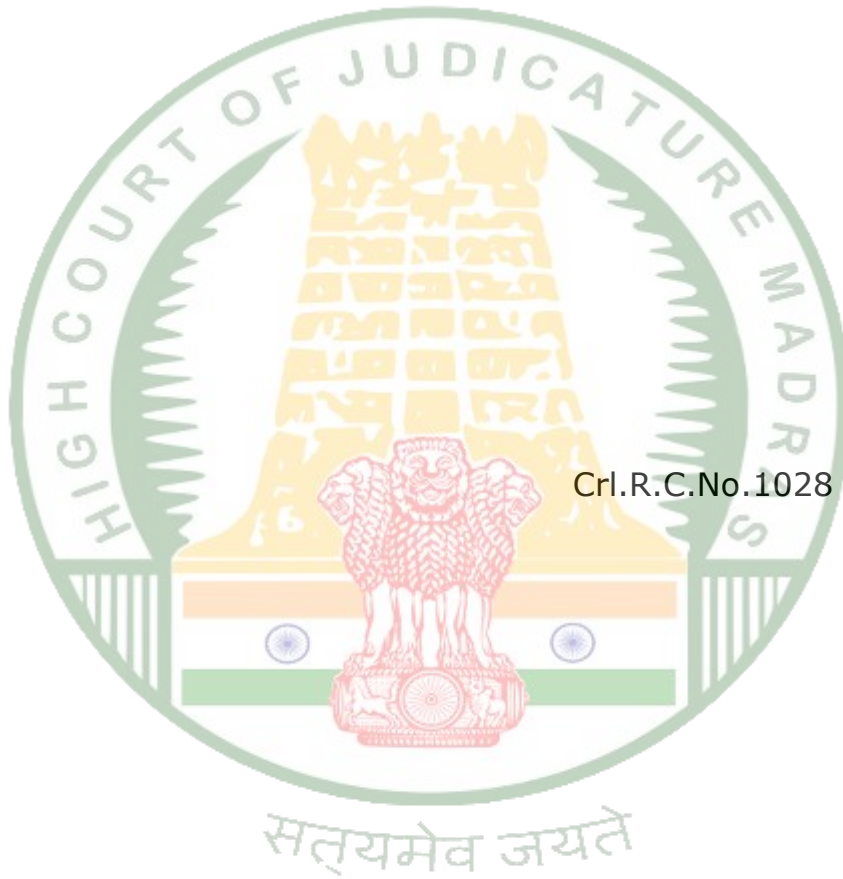
2.The Public Prosecutor,
Coimbatore.



WEB COPY

R. SURESH KUMAR.J.,

AT



Crl.R.C.No.1028 of 2017

WEB COPY

17.08.2017