

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Nineteenth day of September Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice R. SURESH KUMAR

CRIMINAL MISCELLANEOUS PETITION No.10319 of 2017

IN CRL RC.1095/2017

A.JEGAN,

[PETITIONER /APPELLANT/ACCUSED]

Vs

THE UNION OF INDIA REP BY
THE SUB INSPECTOR,
RAILWAY PROTECTION FORCE,
ICF SHEEL, CHENNAI.
CR.NO.5 OF 2003.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal RC.No.1095 OF 2017 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment passed in C.C.No.5793 of 2003, on the file of VI Metropolitan Magistrate, Egmore, Chennai confirmed in C.A.No.137 of 2012 on the file of IV Additional Sessions Judge, Chennai and enlarge him on bail, pending disposal of Crl.R.C.No.1095 of 2017.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.1095 of 2017 on the file of the High Court and upon hearing the arguments of MR.JAYASRI BASKAR, Advocate for the petitioner and of MR. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

This petition has been filed to suspend the sentence of imprisonment made in order dated 16.06.2012 in C.C.No.5793 of 2003 on the file of the learned VI Metropolitan Magistrate, Egmore, Chennai as confirmed by the order dated 07.06.2017 in C.A.No.137 of 2012 on the file of the learned IV Additional Sessions Judge, Chennai.

2. The respondent/prosecution had filed charge against six accused persons under Section 3 (a) of Railway Property (Unlawful Possession) Act. However, the trial Court has acquitted A3. Since A1, A2 and A4 are juvenile, this case has been splited in respect of the said accused.

3. By the judgment dated 16.06.2012, the trial Court has convicted A5 and A6 for the offence punishable under Section 3(a) of the Railway Property (Unlawful Possession) Act and sentenced them to

undergo simple imprisonment for the period of six months each. As against the said judgment, appeal has been preferred, wherein, by order dated 07.06.2017 in C.A.No.137 of 2012, the appellate Court has also confirmed the said sentence and conviction passed by the trial Court, by dismissing the appeal. Pursuant to the said judgment and conviction, this petitioner, being A5, had been secured on 07.08.2017 and he has been in jail for the past more than 1 ½ months.

4. Ms. Jayasri Baskar, learned counsel appearing for the petitioner would state that the petitioner has got arguable points before this Court in this revision case and the petitioner has been wrongly implicated in the said case, as the prosecution witness themselves have not deposed against the petitioner/accused.

5. In view of the same, this Court feels that this argument advanced by the learned counsel appearing for the petitioner can be considered and decided only at the time of deciding the main revision case. However, since the conviction itself is only for six months and the petitioner/accused has already been in jail from 07.08.2017, this Court is inclined to pass this interim order at this juncture.

i) The substantive sentence imposed against the petitioner (A5) is alone suspended on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned VI Metropolitan Magistrate, Egmore, Chennai, (Allikulam) within a period of two weeks from the date of receipt of a copy of this order and also

ii) the petitioner shall appear before the said Magistrate Court on the first working day of every English calendar month at 10.30 a.m, until further orders.

6. Post this matter on 09.10.2017 along with Crl.R.C.No.1124 of 2017.

-sd/-
19/09/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE METROPOLITAN MAGISTRATE,
NO.VI, EGMORE, CHENNAI.(ALLIKULAM)

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI.
[FOR INFORMATION]

3 THE IV, ADDL. SESSIONS JUDGE,
CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE UNION OF INDIA REP BY
THE SUB INSPECTOR,
RAILWAY PROTECTION FORCE,
ICF SHEEL, CHENNAI

+1 C.C. to M/S.K.V.SRIDHARAN Advocate on payment of necessary
charges-Sr.18034

Order

in
CRL MP.10319/2017

in
CRL RC.1095/2017

Date :19/09/2017

From 7.2.2001 the Registry is issuing certified
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ths : 20.09.2017