

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2017

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THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

CRL. RC. No.672 of 2017
and
CRL.M.P.No.6436 of 2017

K.Senthikumar ... Petitioner

Vs.

K.Palanivelu ... Respondent

Prayer: The Criminal Revision Case has been filed under Section 397 read with 401 of the Code of Criminal Procedure praying to set aside the order passed in Crl.M.P.No.196 of 2016 in Crl.A.No.48 of 2017 dated 29.04.2017 on the file of the III Additional Sessions Judge of Salem.

For Petitioner : Mr.Titus Enock

For Respondent : Mr.K.S.Karthik Raja

ORDER

This Criminal Revision case has been filed against the order passed in Crl.M.P.No.196 of 2016 in C.A.No.48 of 2017 in STC.

No.162 of 2016 by the learned III Additional Sessions Judge, Salem, on 29.04.2017.

2. The case of the petitioner is that he was convicted by the trial court, i.e. Judicial Magistrate V, Salem in STC. No.162 of 2016 under section 138 of the Negotiable Instruments Act, 1881 and to undergo the sentence of simple imprisonment for two years and also imposed compensation of Rs.2,00,000/-, in default, to undergo simple imprisonment for three months.

3. As against the said judgment, the petitioner had filed an appeal before the Appellate Court, where the petitioner sought for suspension of sentence.

4. However, the first Appellate Court by the impugned order dated 29.04.2017, has rejected the said plea of the petitioner to suspend the sentence, on the ground that, Rs.2,00,000/- compensation awarded by the trial court has not been paid by the petitioner. As against the same, the present revision has been filed.

5. I have heard Mr.Titus Enock, learned counsel for the petitioner

and also Mr.K.S.Karthik Raja, learned counsel appearing for the respondent.

6. This Court, at the time of admission of this revision case, in Crl.M.P.No.6436 of 2017 has passed the following conditional order:

"Therefore, pending Criminal Revision Case, the substantive Sentence of imprisonment alone is suspended and subject to certain condition as follows:

(i) The petitioner shall be released on bail on his executing 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 Judicial Magistrate No.V, Salem.

(ii) that the petitioner shall deposit a sum of Rs.1,00,000/- (Rupees one lakh only) to the credit of S.T.C.No.162 of 2016 within fifteen days from today, failing which, suspension of sentence shall stand canceled automatically and

(iii) that the petitioner/accused shall report before the trial court on the first working day of every month at 10.30 am, until further orders."

7. Pursuant to the said conditional order, the learned counsel appearing for the petitioner submits that, the petitioner had deposited

a sum of Rs.1,00,000/- (Rupees one lakh only) to the credit of STC. No.162 of 2016 within the stipulated time by this Court and only pursuant to which, the petitioner had been enlarged on bail by the trial court.

8. Since the petitioner had complied with the said conditional order passed by this Court, whereby he had deposited a sum of Rs.1,00,000/- (Rupees one lakh only) which is 50% of the compensation awarded by the trial court and also the fact that the petitioner has to pursue his appeal, which is filed and pending before the first appellate court, this court is of the considered view that by making this conditional order as absolute, this Criminal Revision Case is disposed of by giving suitable direction to the appellate court to decide the appeal on merits.

9. Accordingly the following order is passed in this revision case:

1. the impugned order is set aside;
2. the deposit of Rs.1,00,000/-, pursuant to the conditional order passed by this court in Crl.M.P.No.6436 of 2017 in Crl.RC.No.672 of 2017, shall be taken as compliance of conditional

order, based on which the petitioner was released on bail and it can be treated as absolute till the disposal of the appeal.

3. The first appellate court shall proceed to decide the appeal filed and pending before the said court on merits and in accordance with law, as expeditiously as possible.

10. With these directions, the Criminal Revision Case is allowed.

07.08.2017

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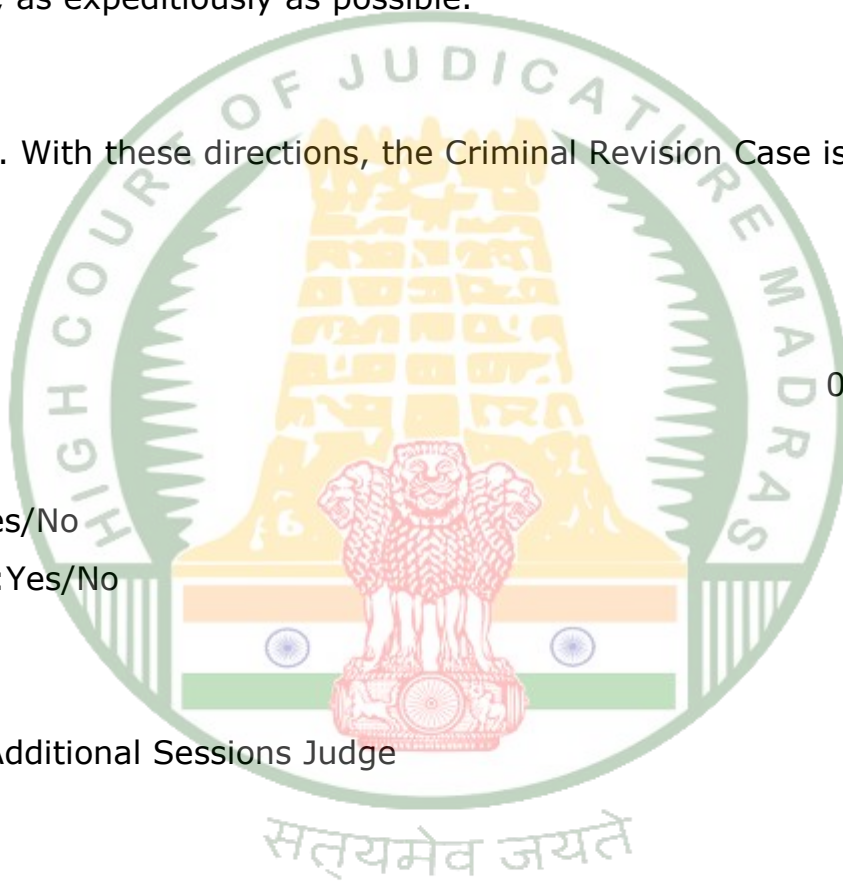
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To

The III Additional Sessions Judge

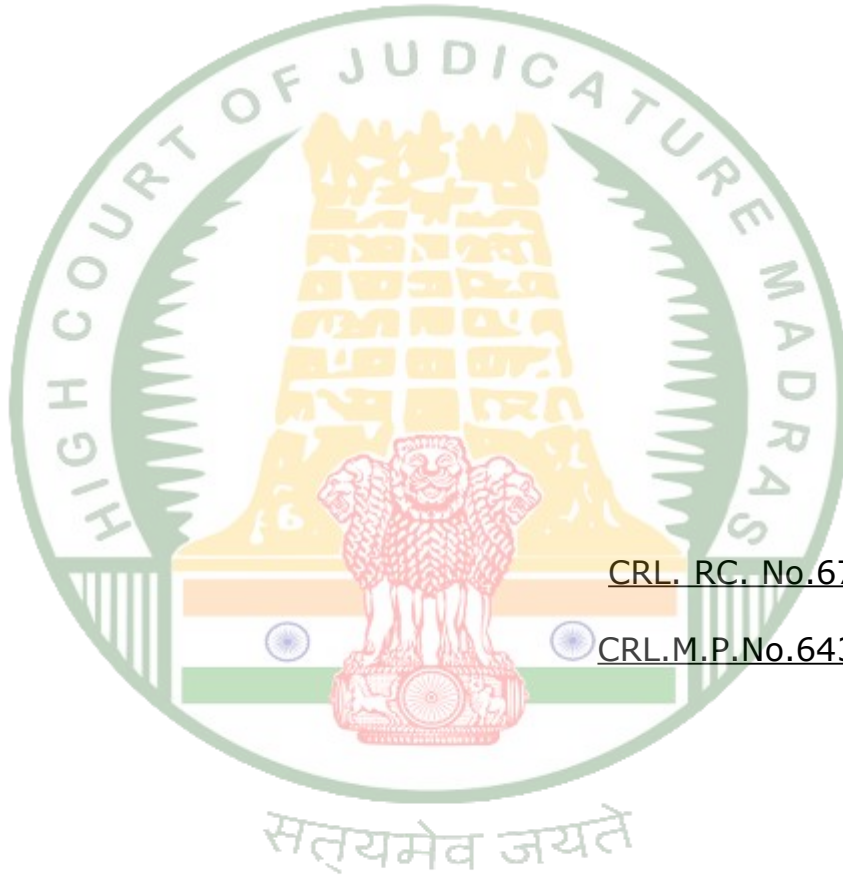
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R.SURESH KUMAR, J.

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