

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.Nos.95 to 97 of 2017

N.Palanisamy .. Petitioner
in Crl.R.C.Nos.95 to 97 of 2017(Accused)
vs.

P.Sampath .. Respondent
in Crl.R.C.Nos.95 to 97 of 2017(Complainant)

Criminal Revision filed under Section 397 and 401 Cr.P.C. to set-aside the orders passed in CMP.Nos.72 to 74 of 2017 in C.A.Nos.5 to 7 of 2017 on 09.01.2017 by the file of the Principal District and Sessions Judge, Coimbatore.

For Petitioner : Mr.M.N.Balakrishnan

For Respondent : No appearance.

COMMON ORDER

These revisions arise against the orders of learned Principal District and Sessions Judge, Coimbatore, passed in CMP.Nos.72 to 74 of 2017 in C.A.Nos.5 to 7 of 2017 on 09.01.2017.

2.Petitioner has been convicted for offences under section 138 of N.I. Act in cases tried in C.C.Nos.99, 255 and 293 of 2015, on the file of the Judicial Magistrate, Fast Track Court at Magisterial Level-I, Coimbatore. The Trial Court under judgment dated 09.01.2017 convicted the petitioner under section 138 of N.I. Act and sentenced him as follows:

Accused in	Sentence
C.C.No.99 of 2015	6 months S.I. and a Compensation of Rs.54,500/- payable to the complainant within 2 months - i/d.2 months S.I.

Accused in	Sentence
C.C.No.255 of 2015	6 months S.I. and a Compensation of Rs.53,000/- payable to the complainant within 2 months - i/d.2 months S.I.
C.C.No.293 of 2015	6 months S.I. and a Compensation of Rs.51,500/- payable to the complainant within 2 months - i/d.2 months S.I.

3.As on 09.01.2017, the date of judgments petitioner has not appeared before the Trial Court, the Trial Court passed judgments and issued NBW against petitioner. Petitioner filed petitions seeking suspension of sentence in Criminal Miscellaneous Petition Nos.72 to 74 of 2017 in C.A.Nos.5 to 7 of 2017, on the file of the Principal District and Sessions Judge, Coimbatore, which were dismissed on the reasoning that if practice adopted by the petitioner is permitted, all accused would absent themselves at the time of pronouncement of judgment. Trial Court was directed to secure the petitioner in all three cases.

4.Learned counsel for petitioner submits that the petitioner was unable to appear before the Trial Court on the date of judgment as he was ill. Such non appearance is neither wilful nor wanton.

5.Considering the submissions of learned counsel for petitioner, this Court sets aside the orders under challenge subject to the petitioner effecting payment in a total sum of Rs.3,000/- to the credit of Tamil Nadu State Legal Services Authority and producing proof of such payment before the Trial Court within one week from the date of receipt of a copy of this order. Petitioner is now permitted to move petitions under Section 70(2) Cr.P.C before the Trial Court seeking recall of NBW informing the reasons for his absence. Petitioner to appear before the Trial Court within a period of one week from the date of receipt of this order. Upon recall of NBW, petitioner may approach the learned Principal District and Sessions Judge, by way of fresh petitions seeking suspension of sentence.

6.Accordingly, these Criminal Revisions are disposed of with the above directions.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1. The Principal District and Sessions Judge,
Coimbatore.

2. The Judicial Magistrate,
Fast Track Court,
Magisterial Level-1,
Coimbatore.

3. The Secretary,
The Tamil Nadu state legal service Authority,
Chennai.

+1cc to Mr.M.N. Balakrishnan, Advocate Sr. 12940

Cr1.R.C.Nos.95 to 97 of 2017

SV(CO)
VR(18/04/2017)



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