

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Tenth day of October Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION No.11801 of 2017

IN CRL RC.1230/2017

THANGARAJ

[PETITIONER]

Vs

1 INSPECTOR OF POLICE
THAMMAMPATTI POLICE STATION,
SALEM DISTRICT.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1230/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence of conviction passed by the learned Judicial Magistrate, Court No.2, Attur, Salem in C.C.No.234 of 2007 dated 23.01.2017 and confirmed in C.A.No.15/2017 Second Additional District and Sessions Judge dated 17.07.2017 against me pending disposal of the above revision.[CRL.MP.NO.11801/2017]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.1230/2017 on the file of the High Court and upon hearing the arguments of M/S.I.C.VASUDEVAN, Advocate for the petitioner and of MR.R.SEKAR, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

Petitioner faced trial in C.C.No.234 of 2007 on the file of learned Judicial Magistrate No.2, Attur. Under judgment dated 23.01.2007, the trial Court convicted the petitioner for an offence under Sections 279, 337, 338 and 304 (A) IPC and sentenced him to four months imprisonment and to pay a fine of Rs.1,000/- for the offence under Section 279 IPC and for the offence under Section 337 IPC (2 counts) to undergo simple imprisonment for three months and to pay a fine of Rs.300/- for each count (in total amounts to Rs.6,600/-), in default, to undergo one month simple imprisonment and for the offence under Section 338 (2 counts) to undergo one year of simple imprisonment along with fine of Rs.500/- for each counts, (in total amounts to Rs.1,000/-), in default, to undergo two month simple imprisonment and for the offence under Section 304 (A) IPC (2 counts) to undergo two years of simple imprisonment and to pay a fine of Rs.5,000/- for each count (in total amounts to Rs.10,000/-), in default to undergo two months of imprisonment. The conviction and sentence imposed by trial Court was confirmed by learned Second

Additional District and Sessions Court, Salem, under judgment in C.A.No.234 of 2007, dated 17.07.2017. Hence, petitioner seeks suspension of sentence.

2. The learned counsel for petitioner submits that there are several infirmities and inconsistencies in the prosecution case. It is contended that there are contradictions in material particulars in the evidence of the prosecution witnesses. It is further represented that there is no precondition requiring the petitioner's surrender or being in confinement in availing the relief of suspension of sentence under Section 397 Cr.P.C. in exercise of revisional powers by this Court. The decisions of the Honourable Apex Court in **BIHARI PRASAD SINGH VS STATE OF BIHAR AND ANOTHER (2000 SCC (Cri) 1380)** and that of the **IBRAHIM VS STATE OF KERALA (1979 KLT 857)** are relied upon in this regard.

3. Heard learned Government Advocate [Crl.side] on the submissions made by learned counsel for petitioner.

4. The above decisions have been relied upon time and again by this Court towards holding that in moving a revision against conviction, the accused need not surrender and undergo confinement before seeking the relief of suspension of sentence pending disposal of the Criminal Revision.

5. Taking into consideration the submissions of learned counsel for petitioner and that the revision is not likely to be taken up for final hearing, in the near future, this Court is of the view that the petitioner herein may be granted the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond in a sum of Rs.10,000/- each (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of learned Judicial Magistrate No.2, Attur, and on further condition that petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending revision.

-sd/-
10/10/2017

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 JUDICIAL MAGISTRATE,
NO.2, ATTUR

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE
THAMMAMPATTI POLICE STATION,
SALEM DISTRICT.

5 THE 2ND ADDITIONAL DISTRICT
AND SESSIONS COURT,SALEM

+1 C.C. to M/S.I.C.VASUDEVAN Advocate on payment of necessary
charges SR.NO. 19180

Order

in
CRL MP.11801/2017

in
CRL RC.1230/2017

Date :10/10/2017

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 11/10/2017