

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Thirty First day of October Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION No.12738 of 2017

IN CRL RC.1309/2017

G.SUMATHI, AGE 42

[PETITIONER]

Vs

1 MR.P.L.VELLINGIRI
S/O.KALIAPPA CHETTIAR,
DOOR NO.162, RAJ MILL
ROAD, POLLACHI-641 002.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.1309/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in CA.89/2016 on the file of First Additional District and Session Judge Coimbatore and conforming the judgment made in STC No.1067 of 2011 dated 08.06.2016 on the file of Judicial Magistrate No.2, Pollachi.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.1309/2017 on the file of the High Court and upon hearing the arguments of M/S.S.DHANALAKSHMI, Advocate for the petitioner, the court made the following order:-

This Criminal Revision Case has been filed by the petitioner / accused, who was found guilty by the trial court for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo one year simple imprisonment and to pay the cheque amount of Rs.5,00,000/- as compensation within three months, failing which, she was directed to undergo six months simple imprisonment. Against the conviction and sentence, the accused has filed Criminal Appeal No.89 of 2016 before the First Additional District and Sessions Judge, Coimbatore, wherein, the conviction and sentence passed by the trial court was confirmed. Hence, the petitioner seeks suspension of sentence.

2. The learned counsel appearing for the petitioner / accused would submit that the admitted liability of the petitioner is Rs.1,50,000/- only and the admitted amount is paid during the pendency of the proceedings; receipts dated 24.10.2013, 06.12.2014 and 29.07.2015, amounting to Rs.85,000/- have been filed. It is also submitted that the remaining amount of Rs.65,000/- (out of Rs.1,50,000/-) has also been paid and the accused is not able to get the copy of the judgment. The learned counsel further submitted that considering the period involved in taking up the Revision Case, the sentence may be suspended.

3. 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.

4. Taking into consideration the submissions made by the learned counsel for petitioner and that the Revision Case is not likely to be taken-up for final hearing in the near future and considering the payment already made and considering the grounds of revision, this Court is of the view that the petitioner herein may be granted the relief of suspension of sentence.

5. 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, Pollachi, 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 Case.

6. Notice to the sole respondent returnable by four weeks in addition to private service. Post the Criminal Revision Case after four weeks.

-sd/-

31/10/2017

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, POLLACHI

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE (FOR INFORMATION)

+1 C.C. to M/S.S.DHANALAKSHMI Advocate on payment of
necessary charges SR.NO.20104

Order
in
CRL MP.12738/2017
in
CRL RC.1309/2017

Date :31/10/2017

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MD: 01/11/2017