

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twelfth day of October Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION Nos.12750 & 12751 of 2017

IN CRL RC.1312/2017

T.N.JAYAPAL,

[PETITIONER in BOTH THE PETITIONS]

Vs

STATE BY

[RESPONDENT IN BOTH THE PETITIONS]

THE INSPECTOR OF POLICE,
TIRUCHENGODE TOWN POLICE STATION,
NAMAKKAL DISTRICT.
CR.NO.529 OF 2014.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal RC. No.1312 OF 2017 on the file of the High Court, the High Court will be pleased to

(1) suspend the sentence of imprisonment imposed in the judgment dated 28.09.2017 made in C.A.No.18 of 2016 on the file of the learned Sessions Judge, Fast Track Court, Mahila Court, Namakkal confirming the conviction imposed in the judgment dated 08.06.2016 made in S.C.No.50 of 2015 on the file of the learned Assistant Sessions Judge, Tiruchengode and enlarge the petitioner on bail pending disposal of the above CRL.RC.1312/2017 before this Hon'ble Court. (CRL.MP.12750/2017)

(2) grant an order of exemption from surrendering before the trial court pursuant to the judgment dated 28.09.2017 made in C.A.No.18 of 2016 on the file of the learned Sessions Judge, Fast Track Court, Mahila Court, Namakkal confirming the judgment dated 08.06.2016 made in S.C.No.50 of 2015 on the file of the learned Assistant Sessions Judge, Tiruchengode pending disposal of the above CRL.RC.1312/2017 before this Hon'ble Court. (CRL.MP.12751 OF 2017)

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.1312 of 2017 on the file of the High Court and upon hearing the arguments of M/S.N.MANOKARAN, Advocate for the petitioner (IN BOTH THE PETITIONS) and of Mr.R. SEKAR, Government Advocate (Crl.Side) (IN BOTH THE PETITIONS) on behalf of the Respondent the court made the following order:-

The petitioner/accused was found guilty by the trial court/Assistant Sessions Court, Tiruchengode, in S.C.No.50 of 2015 and has been convicted and sentenced under the respective offences,

which are tabulated as hereunder:

Convicted under the Offence	Sentenced
U/s. 294(b) IPC	to undergo 3 months rigorous imprisonment.
U/s. 307 IPC	to undergo 7 years months rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo 6 months simple imprisonment. Out of above fine amount, compensation of Rs.5,000/- awarded to P.W.1 u/s.357 (1) Cr.P.C.

Against the conviction and sentence passed by the trial court, the accused as appellant has filed Criminal Appeal No.18 of 2016 on the file of Sessions (Fast Track Mahila) Court, Namakkal/First Appellate Court, wherein, the conviction and sentence was confirmed by judgment dated 28.09.2017 and the appeal filed by the accused has been dismissed. Challenging the same, the Revision Petitioner/accused has filed the present Criminal Revision Case and pending Revision, he has filed CrI.M.P.Nos.12750 and 12751 of 2017 seeking to suspend the sentence of imprisonment and to exempt him from surrendering before the trial court.

2. The learned Government Advocate (Criminal Side) takes notice for the respondent.

3. The learned counsel for the Revision Petitioner also filed CrI.M.P.No.12753 of 2017, wherein, permission has been sought for to compound the offence.

4. Per se, the offence under Section 307 IPC may not be compoundable. It is pointed out that there is scope for altering the offence under various sections of the IPC and in such circumstances, the offence ought to be permitted to be compounded. It is also pointed out that the same contention has been raised before the trial court. Considering the possibility of settlement and also considering the conviction and sentence imposed in this case, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence and for exemption to surrender before the Court below.

Criminal M.P. No.12750 of 2017

5. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail 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 Judicial Magistrate, Tiruchengode, and on further condition that the petitioner shall appear before the said learned Magistrate on the first working day of every English Calendar month at 10.30 a.m., pending disposal of the revision.

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Considering the facts and circumstances of the case and the

earlier decision of this Court in the case of **Easwaramurthy Vs. N.Krishnaswamy (2006) CRI.L.J.4105** which in turn relied on the decision of the Apex Court in **Bihari Prasad Singh Vs. State of Bihar (2000) SCC (Cri) 1380**, this Court considers it appropriate to allow this petition as prayed for. Accordingly, the petitioner shall not be required to surrender before trial Court.

-sd/-
12/10/2017

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,
TIRUCHENGODE.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

3 THE SESSIONS JUDGE,
FAST TRACK COURT, MAHILA COURT,
NAMAKKAL.

4 THE ASSISTANT SESSIONS JUDGE,
TIRUCHENGODE.

5 THE INSPECTOR OF POLICE,
TIRUCHENGODE TOWN POLICE STATION,
NAMAKKAL DISTRICT.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.N.MANOKARAN Advocate on payment of necessary charges-Sr.19434

Order

in

CRL MP.Nos.12750 & 12751/2017

in

CRL RC.1312/2017

Date :12/10/2017

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