

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Thirteenth day of October Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION NOS.12878 & 12879 of 2017

IN CRL RC.1326/2017

RAMAMURTHY

[PETITIONER]

Vs

STATE OF TAMIL NADU REP.BY
THE INSPECTOR OF POLICE,
S.H.O.KUMARATCHI POLICE STATION,
CUDDALORE DISTRICT.
CR.NO.150/2012.

[RESPONDENT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL RC.1326/2017 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence, dated 04.10.2017 made in C.A.No.15/2017 on the file of the II Additional District and Sessions Judge, Chidambaram confirmed the Judgment dated 24.01.2017 made in C.C.No.70/2013 on the file of Judicial Magistrate No.2, Chidambaram and enlarge the petitioner/Accused on bail, pending disposal of the above CRL RC.1326/2017 [IN CRL.MP.NO.12878 OF 2017]

[ii] grant exemption to surrender the petitioner based on the conviction and sentence made in the judgment dated 04.10.2017 made in C.A.No.15/2017 on the file of the II Additional District and Sessions Judge, Chidambaram confirmed the Judgment dated 24.01.2017 made in C.C.No.70/2013 on the file of Judicial Magistrate No.2, Chidambaram, CRL RC.1326/2017 [IN CRL.MP.NO.12879 OF 2017]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL RC.1326/2017 on the file of the High Court and upon hearing the arguments of M/S.S.P.SUDALAIYANDI, Advocate for the petitioner and of MR. R.SEKAR, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

The petitioners/accused was found guilty by the trial court/Judicial Magistrate No.2, Chidambaram, in C.C.No.70 of 2013 and has been convicted and sentenced under the respective offences, which are tabulated as hereunder:

<i>Convicted under the Offence</i>	<i>Sentenced</i>
first accused was found guilty u/s.325 IPC against the	to undergo 3 months rigorous imprisonment and to pay a fine of Rs.2000/- in default to undergo simple imprisonment for one month.
second accused was found guilty u/s.324 IPC.	to pay a fine of Rs.2000/-, in default to undergo 1 month simple imprisonment.

Against the conviction and sentence passed by the trial court, the accused as appellants have filed Criminal Appeal No.15 of 2017 on the file of II Additional District and Sessions Court, Chidambaram, wherein, the conviction and sentence was confirmed by judgment dated 04.10.2017. Challenging the same, the Revision Petitioner/accused has filed the present Criminal Revision Case and pending Revision, the 1st petitioner/1st accused has filed Crl.M.P.Nos.12878 and 12879 of 2017 seeking to suspend the sentence of imprisonment and enlarge him on bail and to exempt the him from surrendering before the trial court.

2. Learned Government Advocate (Crl.Side) takes notice for the respondent/State.

3. The learned counsel appearing for the Revision Petitioners would submit that there are several infirmities and illegalities found in the prosecution case. It is further contended that there are contradictions in the material particulars in the evidence of the prosecution witnesses. Further, the learned counsel for the petitioners submits that there are arguable points involved in this revision and prayed for suspending the sentence imposed and to exempt the petitioner from surrendering before the trial court.

4. Considering the facts and circumstances of the case, this Court is of the considered view that the 1st petitioner/1st accused herein is entitled to the relief of grant of suspension of sentence and exemption to surrender before the trial court.

5. Accordingly, the substantive sentence of imprisonment alone is suspended and the 1st petitioner is directed to be enlarged on bail on condition that the 1st petitioner-Ramamurthy 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 No.2, Chidambaram, and on further condition that the 1st 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. As far as application seeking exemption to surrender is concerned, in the light of the judgment of the Honourable Supreme Court rendered 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 1st petitioner is exempted from surrendering before the Court below.

-sd/-
13/10/2017

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, CHIDAMBARAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION]

3 THE II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, CHIDAMBARAM.

4 THE INSPECTOR OF POLICE,
S.H.O.KUMARATCHI POLICE STATION,
CUDDALORE DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S.S.P.SUDALAIYANDI Advocate on payment of
necessary charges SR NO.19536

Order

in
CRL MP.12878 & 12879 OF 2017

in
CRL RC.1326/2017

Date :13/10/2017

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

MK:24/10/2017