

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 No.12908 & 12910 of 2017

IN CRL RC.1330/2017

STANLEY

[PETITIONER]

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
TIW WEST POLICE STATION,
COIMBATORE.CR.NO.184 OF 2010.

[RESPONDENT]

Petitions praying that in the circumstances stated therein the High Court will be pleased to

(I)To suspend the sentence of imposed upon the petitioner by Judgment dated 02.07.2014 made in C.A.No.12 of 2014 on the file of Vth Additional District & Sessions Judge, Coimbatore modifying imposed upon the petitioner by Judgment dated 30.12.2013 made in C.C.No.56 of 2011 on the file of Judicial Magistrate no.8, Coimbatore pending disposal of the above criminal revision case.
[IN CRL.MP.1208/2017]

(II)To exempt the petitioner from surrendering in pursuant to the order dated 02.07.2014 made in CA.No.12 of 2014 on the file of Vth Additional District and Sessions Court, Coimbatore modifying the conviction by Judgment 30.12.2013 in CC.No.56 of 2011 on the file of Judicial magistrate No.8, Coimbatore pending disposal of the above criminal revision case.[IN CRL.MP.12910/2017]

Order : These petitions coming on for orders upon perusing the petition and upon hearing the arguments of M/S.P.SARAVANA SOWMIYAN, Advocate for the petitioner and of PUBLIC PROSECUTOR [FOR R1] on behalf of the Respondent the court made the following order:-

The petitioner/accused was found guilty by the trial court/Judicial Magistrate No.8, Coimbatore, in C.C.No.56 of 2011 and has been convicted and sentenced under the respective offences, which are tabulated as hereunder:

Convicted under the Offence	Sentenced
U/s.304 (A) IPC	to undergo one year rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo R.I. For one month.

<i>Convicted under the Offence</i>	<i>Sentenced</i>
U/s. 279 IPC	to pay a fine of Rs.500/-, in default to undergo 2 weeks simple imprisonment.

Against the conviction and sentence passed by the trial court, the accused as appellant has filed Criminal Appeal No.12 of 2014 on the file of V Additional District and Sessions Court, Coimbatore, wherein, the conviction and sentence was partly allowed by judgment dated 02.07.2014 on the following terms:-

<i>Convicted under the Offence</i>	<i>Partly modified sentence by appellate court</i>
U/s.304(A) IPC	Conviction reduced to 6 months and confirmed the fine amount.
U/s.279 IPC	Conviction and sentence Confirmed.

Challenging the same, the Revision Petitioner/accused has filed the present Criminal Revision Case and pending Revision, he has filed Crl.M.P.Nos.12908 and 12910 of 2017 seeking to suspend the sentence of imprisonment and to exempt the petitioner 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 Petitioner 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 petitioner submits that there are arguable points involved in this revision and that the petitioner/accused has paid the fine amount before the trial court 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 petitioner 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 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 No.8, Coimbatore, 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. 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/-

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. 8 COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 STATE REP. BY
THE INSPECTOR OF POLICE, TIW WEST POLICE
STATION, COIMBATORE.CR.NO.184 OF 2010.

5 THE V ADDITIONAL DISTRICT
AND SESSIONS COURT, COIMBATORE.

1C.C. to M/S.P.SARAVANA SOWMIYAN Advocate on payment of
necessary charges SR.NO. 19471

Order

in
CRL MP.12908 & 12910/2017

in
CRL RC.1330/2017

Date :13/10/2017

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EGR 25/10/2017