

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.12911 and 12913 of 2017

IN CRL RC.1331/2017

PAKIYARAJ,

[PETITIONER/APPELLANT/ACCUSED IN
BOTH THE PETITIONS]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
MATHIGIRI POLICE STATION,
KRISHNAGIRI DISTRICT
CR.NO.282 OF 2007.

[RESPONDENT IN BOTH THE PETITIONS]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal RC. No.1331 OF 2017 on the file of the High Court, the High Court will be pleased to

(1) suspend the sentence passed in C.A.No.25 of 2017 dated 11.08.2017 by the Learned Additional District Sessions Judge, Krishnagiri confirming the conviction under Section 326 IPC and sentencing him to undergo simple imprisonment for three years and to pay a fine of Rs.1000/- in default, to undergo simple imprisonment for two months in judgment in C.C.No.36 of 2009 dated 16.03.2017 passed by the Learned Judicial Magistrate No.II, Hosur Krishnagiri District release the petitioner on bail until disposal of the CRL.RC.1331/2017. (CRL.MP.12911/2017)

(2) exempt the petitioner from surrendering before the Judicial Magistrate II, Hosur in C.C.No.36 of 2009 in pursuance of the judgment passed by the Learned Additional District Sessions Judge, Krishnagiri in C.A.No.25 of 2017 dated 11.08.2017 pending disposal of the CRL.RC.1331/2017. (CRL.MP.12913/2017)

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.1331 of 2017 on the file of the High Court and upon hearing the arguments of M/S.A.BALAMURUGAN, Advocate for the petitioner (IN BOTH THE PETITIONS) and of MR. PUBLIC PROSECUTOR on behalf of the Respondent (IN BOTH THE PETITIONS) the court made the following order:-

The petitioner/accused was found guilty by the trial court/Judicial Magistrate-II, Hosur, Krishnagiri District, in

C.C.No.36 of 2009 and has been convicted and sentenced under the respective offences, which are tabulated as hereunder:

<i>Convicted under the Offence</i>	<i>Sentence</i>
U/s.323 IPC	to undergo one year simple imprisonment.
U/s. 326 IPC	to undergo 3 years simple imprisonment and to pay a fine of Rs.1000/-, in default, to undergo 2 months simple imprisonment.

Against the conviction and sentence passed by the trial court, the accused as appellant has filed Criminal Appeal No.25 of 2017 on the file of Additional District and Sessions Court at Krishnagiri, wherein, the conviction and sentence was partly allowed by judgment dated 11.08.2017 on the following terms:-

<i>Convicted under the Offence</i>	<i>Partly modified sentence by appellate court</i>
U/s.323 IPC	Set aside.
U/s.326 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.12911 and 12913 of 2017 seeking to suspend the sentence of imprisonment and to release the petitioner on bail until disposal of the Criminal Revision 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 the identity of the accused itself was doubtful and there was no reliable evidence to show the involvement of the accused herein in the occurrence and the findings of the courts below requires modification. It is also submitted that there are several infirmities and illegalities found in the prosecution case and that there are arguable points involved in this revision.

4. Considering the fact that there are arguable points involved in the revision, 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-II, Hosur, 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. As far as application seeking exemption to surrender is concerned, in view of the above observation, no further order need to

be passed. Accordingly, the 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.II, HOSUR.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI. [FOR INFORMATION]

3 THE ADDL. DISTRICT SESSIONS
JUDGE, KRISHNAGIRI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
MATHIGIRI POLICE STATION,
KRISHNAGIRI DISTRICT

+1 C.C. to M/S.A.BALAMURUGAN Advocate on payment of necessary charges-Sr.19482

Order

in
CRL MP.Nos.12911 & 12913/2017

in
CRL RC.1331/2017

Date :13/10/2017

From 7.2.2001 the Registry is issuing certified
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ths : 20.10.2017