

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Tuesday, the Twenty Fourth day of October Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION No.12972 & 12974 of 2017

IN CRL RC.1337/2017

V.S.GUNASEELAN

[PETITIONER / APPELLANT / ACCUSED]

Vs

K.MOORTHY

[RESPONDENT / COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL RC.1337/2017 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence and grant bail in respect of Crl.Appeal No.119 of 2017 on the file of the Additional Sessions Judge, Magalir Needhi Mandram/Fast Track Court, Erode by confirming the judgment rendered by learned Judicial Magistrate No.1, Gopichettipalayam in C.C.No.2 of 2008 dated 08.05.2017, CRL RC.1337/2017 [IN CRL.MP.NO.12972 OF 2017]

[ii] exempt the petitioner from surrendering before the learned Judicial Magistrate, Gobichettipalayam, Erode in respect of Criminal Appeal No.119 of 2017 on the file of the Additional Sessions Judge, Magalir Needhi Mandram Fast Track Court, Erode by confirming the judgment rendered by the learned Judicial Magistrate No.I, Gopichettipalayam in C.C.No.2 of 2008 dated 08.05.2017, CRL RC.1337/2017 [IN CRL.MP.NO.12974 OF 2017]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL RC.1337/2017 on the file of the High Court and upon hearing the arguments of M/S.D.RAJAGOPAL, Advocate for the petitioner, the court made the following order:-

The Criminal Revision has been filed by the Petitioner/accused in C.C.No.2 of 2008 before the learned Judicial Magistrate No.1, Gopichettipalayam and the appellant before the Additional Sessions Judge, Magalir Neethi Mandram/Fast Track Court, Erode. The petitioner/accused has been convicted and sentenced under the respective offences, which are tabulated as hereunder:-

<i>convicted under the offence</i>	<i>Sentenced</i>
U/s.138 of N.I.Act	To undergo simple imprisonment for two years

Against the conviction and sentence passed by the trial court, the accused as appellant has filed Criminal Appeal No.119 of 2017 on the file of the First Appellate Court. In the appellate Court, the conviction and sentence was confirmed by Judgment dated 31.08.2017 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 Crl.M.P.12972 of 2017 seeking to suspend the sentence and to enlarge him on bail and Crl.M.P.No.12974 of 2017 to exempt him from surrendering before the trial court.

2. Notice to respondent returnable by four weeks in addition to private service.

3. It is submitted by the learned counsel appearing for the Revision Petitioner that the accused will be willing to deposit the amount, as ordered by this Court, as a pre-condition for suspending the sentence.

4. Considering the above submission of the learned counsel appearing for the Revision Petitioner/accused and also considering the fact that there are arguable points involved in this revision, this court is inclined to grant the relief of suspension of sentence, on terms, pending Criminal Revision.

5. Accordingly, the petitioner/accused is directed to deposit a sum of Rs.75,000/- (Rupees Seventy five thousand only) to the credit of C.C.No.2 of 2008 on the file of Judicial Magistrate No.1, Gopichettipalayam within a period of four weeks from the date of receipt of a copy of this order. Subject to that condition, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on further conditions (i) 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, Gopichettipalayam and (ii) 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 Revision.

6.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 petitioner is exempted from surrendering before the Court below.

-sd/-
24/10/2017

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.I, GOPICHETTIPALAYM.

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

3 THE ADDITIONAL SESSIONS JUDGE,
MAGALIR NEETHI MANDRAM/FAST TRACK COURT,
ERODE.

+1C.C. to M/S.D.RAJAGOPAL Advocate on payment of necessary charges SR NO.19714

Order

in
CRL MP.12972 & 12974 OF 2017

in
CRL RC.1337/2017

Date :24/10/2017

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MK:27/10/2017