

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twentieth day of October Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION No.12987 of 2017

IN CRL RC.1338/2017

MANIKANDAN,

[PETITIONER]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
PUDUCHATRAM POLICE STATION,
NAMAKKAL, DISTRICT.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.R.C.No.1338/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment made in C.A.No.26 of 2015 dated 15.09.2017 on the file of the Sessions (Fast Track Mahila Court, Namakkal confirming the conviction and sentence made in C.C.No.93 of 2014 dated 10.06.2015 on the file of the Judicial Magsitrate No.II, Namakkal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.1338/2017 on the file of the High Court and upon hearing the arguments of M/S.K.S.KARTHIK RAJA, Advocate for the petitioner and of Public Prosecutor on behalf of the Respondent the court made the following order:-

Petitioner faced trial in C.C.No.93 of 2014 on the file of learned Judicial Magistrate No.2, Namakkal. Under judgment dated 10.06.2015, the trial Court convicted the petitioner for an offence under Sections 279 and 304 (A) IPC and imposed a fine of Rs.1,000/- under Section 279 IPC and sentenced him to two year simple imprisonment and to pay a fine of Rs.5,000/- for the offence under Section 304(A) IPC, in default, to undergo three months simple imprisonment. On appeal, in C.A.No.26 of 2015, dated 15.09.2017, the learned Sessions (Fast Track Mahila) Court, Namakkal, modified the conviction by setting-aside the fine imposed under Section 279 IPC and confirmed the conviction

under Section 304(A) IPC. Hence, petitioner seeks suspension of sentence.

2. The learned counsel for petitioner submits that there are several infirmities and inconsistencies in the prosecution case. It is contended that there are contradictions in material particulars in the evidence of the prosecution witnesses. It is further represented that there is no precondition requiring the petitioner's surrender or being in confinement in availing the relief of suspension of sentence under Section 397 Cr.P.C. in exercise of revisional powers by this Court. The decisions of the Honourable Apex Court in **BIHARI PRASAD SINGH VS STATE OF BIHAR AND ANOTHER (2000 SCC (Cri) 1380)** and that of the **IBRAHIM VS STATE OF KERALA (1979 KLT 857)** are relied upon in this regard.

3. Heard learned Government Advocate [Crl.side] on the submissions made by learned counsel for petitioner.

4. The above decisions have been relied upon time and again by this Court towards holding that in moving a revision against conviction, the accused need not surrender and undergo confinement before seeking the relief of suspension of sentence pending disposal of the Criminal Revision.

5. Taking into consideration the submissions of learned counsel for petitioner and that the revision is not likely to be taken up for final hearing, in the near future, this Court is of the view that the petitioner herein may be granted the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond in a sum of Rs.10,000/- each (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of learned Judicial Magistrate No.2, Namakkal, and on further condition that petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending revision.

-sd/-

20/10/2017

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, NAMAKKAL

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATE REP BY ITS,
THE INSPECTOR OF POLICE, PUDUCHATRAM POLICE
STATION, NAMAKKAL, DISTRICT.

5 THE SESSIONS (FAST TRACK
MAHILA) COURT, NAMAKKAL

+1 C.C. to M/S.K.S.KARTHIK RAJA Advocate on payment of
necessary charges Sr.No.19567

Order
in
CRL MP.12987/2017
in
CRL RC.1338/2017

Date :20/10/2017

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MD: 24/10/2017