

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.13114 and 13116 of 2017

IN CRL RC.1349/2017

S.JEGANNATHA PANDIAN,

[PETITIONER]

Vs

SRI KRISHNA TILES AND

[RESPONDENT]

POTTERIES (MADRAS) PVT. LTD.,

REP. BY ITS SENIOR ADMINISTRATIVE OFFICER

V.SUBRAMANIAM,

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1349/2017 on the file of the High Court, the High Court will be pleased to

[I]suspend the conviction and sentence passed by XI Metropolitan Magistrate, Saidapet, Chennai in C.C.No.950 of 2003 by its judgment dated 26.12.2013 as confirmed by the VI Additional Sessions Judge, Chennai made in C.A.No.18 of 2014 by its judgment dated 30.8.2017 pending disposal of the main Revision.[CRL.MP.NO.13114/2017]

[II]grant exemption from surrendering before the trial court in pursuance to the conviction and sentence passed by the XI Metropolitan Magistrate, Saidapet, Chennai in C.C.No.950 of 2003 by its judgment dated 26.12.2013 as confirmed by the VI Additional Sessions Judge, Chennai made in C.A.No.18 of 2014 by its judgment dated 30.8.2017 pending disposal of the main Revision.[CRL.MP.NO.13116/2017]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.1349/2017 on the file of the High Court and upon hearing the arguments of MR.S.SHANMUGAVELAYUTHAM SENIOR COUNSEL FOR M/S.T.VIJAYARAGHAVAN Advocate for the petitioner, the court made the following order:-

The petitioner/appellant accused No.5 was convicted by the trial court/XI Metropolitan Magistrate,Saidapet,Chennai in C.C.NO.950 of 2003 and sentenced under the respective offences, which are tabulated as hereunder:

<i>Convicted under the Offence</i>	<i>Sentenced</i>
U/s.465, IPC	To undergo 2 years simple imprisonment
U/s.468, IPC	To undergo 3 years simple imprisonment u/s. 468 IPC and also to pay a fine of Rs.1000/- in default, to undergo 2 months simple imprisonment.
420 read with 511 IPC	To undergo 3 years simple imprisonment r/w 511 IPC and also to pay a fine of Rs.1000/- in default, to undergo 2 months simple imprisonment
120 (B) IPC	To undergo one year simple imprisonment and to pay a fine of Rs.500/- in default, to undergo one month simple imprisonment.

2. Against the conviction and sentence passed by the trial Court, the accused as appellant has filed Criminal Appeal No.18 of 2014 on the file of learned VI Additional Sessions Judge, Chennai, wherein, the conviction and sentence was confirmed by judgment dated 30.08.2017. Challenging the same, the Revision petitioner / accused No.5 has filed the present Criminal Revision Case and pending Revision, the petitioner / accused has filed CrI.MP.Nos.13114 and 13116 of 2017 seeking to suspend the sentence of imprisonment and to exempt him from surrendering before the trial Court.

3. Notice to the respondent returnable in four weeks in addition to private service.

4. Learned counsel for petitioner would submit that the charges have not been framed as contemplated under Criminal Procedure Code and the charges were vague and not self explanatory. It is further contended that there is no specific charge against the petitioner / appellant under Sections 468, 471 and 420 IPC. Further the learned counsel for the petitioner submits that there are arguable points involved in this revision and therefore, pending disposal of the Criminal Revision Petition, he prayed for suspending the sentence imposed on the petitioner.

5. Heard the learned counsel for the petitioner.

6. Out of five accused, A2 died and A4 discharged. The remaining accused are A1, A3, and A5. It is submitted that already sentence has been suspended in respect of A3. This petition has been filed by A5 stating that there are same set of allegations to A5 as that of A3.

7. Considering the facts and circumstances of the case and in view of the fact that the petitioner has paid the fine amount of Rs.2,500/- and preferred the above Criminal Revision and 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.

8. 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 XI Metropolitan Magistrate, Saidapet, Chennai, 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.

9. As far as petition 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 METROPOLITAN MAGISTRATE,
NO.XI, SAIDAPET, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE,EGMORE[FOR INFORMATION]

3 THE VI ADDITIONAL SESSIONS
JUDGE,CHENNAI

+2 C.C. to M/S.T.VIJAYARAGHAVAN Advocate on payment of
necessary charges SR.NO. 19721,19722

Order

in
CRL MP.13114 & 13116/2017

in
CRL RC.1349/2017

Date :24/10/2017

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 26/10/2017