

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the First day of November Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION Nos.13513 & 13515 of 2017

IN CRL RC.1385/2017

A.RATHINASAMY, [PETITIONER

Vs

S.SUBRAMANIAM, [RESPONDENT]
POWER OF ATTORNEY OF M/S.ASKER KNIT WEAR S/O.
APPUKUTTY D.NO.30A KAMARAJ NAGAR, 2ND STREET,
P.N.ROAD, TIRUPUR, DISTRICT.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.1385/2017 on the file of the High Court, the High Court will be pleased to

(i)suspend the sentence imposed on the petitioner in C.A.No.25 of 2015 dated 21.09.2017confirming the conviction and sentence passed by the Learned Judicial Magistrate No.I, Fast Track Court, Tiruppur in S.T.C.No.4335 of 2011 dated 04.02.2015 an dto enlarge petitioner on bail.(Crl.MP.13513/2017)

(ii) exempt the petitioner from surrendering before the trial court in view of the Judgment in C.A.No.25 of 2015 dated 21.09.2017 of the learned Ist Additional District and Sessions Judge, Trippur confirming the conviction and sentence passed by the learned Judicial Magistrate No.I, Fast Track Court, Tiruppur in S.T.C.4335 of 2011 dated 04.02.2015, pending disposal of the above Crl.RC.No.1385/2017.(Crl.MP.No.13515/2017)

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.1385/2017 on the file of the High Court and upon hearing the arguments of M/S.N.RAMESH, Advocate for the petitioner, the court made the following order:-

The Criminal Revision has been filed by the Petitioner/accused in S.T.C.No.4335 of 2011 before the learned Judicial Magistrate No-1 at Tiruppur, and the appellant before

the 1st Additional District and Sessions Judge, Tiruppur. He has been convicted and sentenced as tabulated hereunder:-

<i>Convicted under the offence</i>	<i>Sentenced</i>
U/s.138 of N.I.Act	To undergo simple imprisonment for one year and and to pay a sum of Rs.8,16,000/- as compensation to the complainant within one month from the date of judgment.

Against the conviction and sentence passed by the trial court, the accused as appellant has filed Criminal Appeal No.25 of 2015 on the file of the First Appellate Court. In the appellate Court, the conviction and sentence was confirmed by Judgment dated 21.09.2017 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.13513 of 2017 seeking suspension of sentence and to enlarge him on bail and Crl.M.P.No.13515 of 2017 is filed to exempt him from surrendering before the trial court.

2. It is submitted by the learned counsel appearing for the Revision Petitioner that the accused is willing to deposit Rs.1 lakh as a pre-condition for suspending the sentence.

3. Considering the above submissions 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.

4. Accordingly, the petitioner/accused is directed to deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of S.T.C.No.4335 of 2011 on the file of Judicial Magistrate-I, Tiruppur, within a period of three 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 that (i) 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.1, Tiruppur and (ii) 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.

5. 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***, in which, the Supreme

Court relied on the decision in the case of **Bihari Prasad Singh Vs. State of Bihar (2000) SCC (Cri) 1380**, this Court considers it appropriate to allow the exemption petition as prayed for. Accordingly, the petitioner is exempted from surrendering before the Court below.

-sd/-
01/11/2017

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, FAST TRACK CLURT, TIRUPPUR

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR (FOR INFORMATION)

3 THE 1ST ADDITIONAL DISTRICT AND
SESSIONS JUDGE, TIRUPPUR

+1 C.C. to M/S.N.RAMESH Advocate on payment of necessary
charges Sr.No.20222

Order

in
CRL MP.13513 & 13515/2017

in
CRL RC.1385/2017

Date :01/11/2017

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MD: 07/11/2017