

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Tuesday, the Fourteenth day of November Two Thousand Seventeen

PRESENT

The Hon`ble Dr Justice G. JAYACHANDRAN

CRIMINAL MISCELLANEOUS PETITION Nos.14018 & 14019 of 2017

IN CRL A.646/2010

K.SUBRAMANIAN,

[ PETITIONER/APPELLANT IN  
BOTH THE PETITIONS]

Vs

THE INSPECTOR OF POLICE,  
SPE-CBI BS AND F.C, CHENNAI.

[ RESPONDENT IN BOTH THE PETITIONS]

Petition praying that in the circumstances stated therein the High Court will be pleased to

(1) condone the absence of the Petitioner appearance on 01.08.2017, before XI Addl.CBI Court, Chennai, in M.P.No.1/2010 in CA.646/2010 by appreciating the above said facts and circumstances and pass. (CRL.MP.14018/2017)

(2) relax the condition imposed order dated 28.10.2010 in M.P.No.1 of 2010 in Crl.Appeal No.646 of 2010 and pass any orders as this Hon'ble Court. (CRL.MP.14019/2017)

Order : These petitions coming on for orders upon perusing the petition and upon hearing the arguments of M/S.K.RAJASEKARAN, Advocate for the petitioner (IN ALL THE PETITIONS) and of Mr.K.SRINIVASAN, SPECIAL PUBLIC PROSECUTOR FOR CBI CASES, ( IN BOTH THE PETITIONS) on behalf of the Respondent the court made the following order:-

Seeking to relax the condition imposed by this Court in M.P.No.1 of 2010 in Crl.A.No.646 of 2010, dated 28.10.2010 and to condone the absence of the petitioner's appearance on 01.08.2017 before the learned XI Additional City Civil Judge (Special Judge for CBI Cases), Chennai in M.P.No.1 of 2010 in Crl.A.No.646 of 2010, the petitioner/appellant is before this Court with these Criminal Miscellaneous Petitions.

2. The trial Court by an order dated 04.10.2010 convicted the petitioner in CC.No.17 of 2002 on the file of XI Additional City Civil Judge (Special Judge for CBI Cases), Chennai for offences under sections 120(B), 409, 420, 467, 468 r/w 471 IPC and 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988 and the petitioner

challenged the same by filing an appeal in Crl.A.No.646 of 2010 on the file of this Court and filed M.P.No.1 of 2010 for suspending the substantive sentence awarded by the trial Court. This Court passed an order dated 28.10.2010 in M.P.No.1 of 2010 of Crl.A.No.646 of 2010 suspending the sentence of the Trial Court and directed the petitioner to be released on bail executing a bond for a sum of Rs.10,000/- with two sureties each for like sum to the satisfaction of the learned XI Additional City Civil Judge (Special Judge for CBI Cases), Chennai subject to the condition that, **"the petitioner shall mark his attendance before the trial Court on the first working day of every month pending disposal of the criminal appeal."**

3. The learned counsel appearing for the petitioner submitted that the petitioner herein was supposed to comply the conditions of this Court by marking his presence before the trial Court on the first working day of every month but he has failed to appear before the trial Court on 01.08.2017 due to the motor cycle accident he met with, which caused physical injury leading to fracture and therefore, he was unable to mark his presence before the trial Court. The petitioner also submitted that on 01.09.2017, he appeared before the learned trial Court for compliance of the condition but the learned trial Judge refused to take notice of the presence of the petitioner and expressed the inability to dispense with the presence of the petitioner on 01.08.2017 in view of the direction of this Court. The learned counsel for the petitioner made a submission that the petitioner undertakes to be present on the first working day of every month before the learned trial Judge, hence forth without fail.

4. The learned Special Public Prosecutor appearing for the respondent submitted that the petitioner has been regularly complying with the condition imposed by this Court on 28.10.2010 till the month of July 2017 and has not reported only during the month of August 2017.

5. Heard the learned counsel appearing for the petitioner and the learned Special Public Prosecutor appearing for the respondent.

6. Considering the facts and circumstances of the case and taking note of the submissions made by the learned counsel appearing on either side, the non-appearance of the petitioner on 01.08.2017 is dispensed with and this Court directs the petitioner to comply with the condition regularly in future without any fail.

7. Accordingly, the absence of the petitioner's appearance on 01.08.2017 before the learned XI Additional City Civil Judge (Special Judge for CBI Cases), Chennai is condoned and

Crl.M.P.No.14019 of 2017 for the relaxation of condition imposed in M.P.No.1 of 2010 in Crl.A.No.646 of 2010 is dismissed.

-sd/-  
14/11/2017

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 XI, ADDITIONAL SPECIAL  
JUDGE, FOR CBI CASES, CHENNAI.

2 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,  
SPE-CBI BS AND F.C, CHENNAI.

+1 C.C. to M/S.K.RAJASEKARAN Advocate on payment of necessary charges-Sr.20953

Order

in  
CRL MP.Nos.14018 & 14019/2017

in  
CRL A.646/2010

Date :14/11/2017

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