

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Second day of November Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION Nos.14596,14598,14599,14601,
14602 & 14604 of 2017

IN CRL RC.Nos.1471 to 1473/2017

J.JEYAKANTHAN

[PETITIONER IN ALL THE PETITIONS]

Vs

V.KANDASAMY

[RESPONDENT IN ALL THE PETITIONS]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case Nos.1471 to 1473/2017 on the file of the High Court, the High Court will be pleased to

(i)suspend the sentence imposed in C.A.Nos.6,7 & 8 of 2017 on the file of the learned VII Additional Sessions Judge, Chennai by judgment dated 31/10/2017 confirming the sentence imposed in C.C.Nos.4227 of 2011,1797 of 2012 & 1798 of 2012 on the file of Metropolitan Magistrate, Fast Track Court No.III at saidapet and pass such further or other orders.(IN CRL.M.P.Nos.14596,14599 & 14602 OF 2017)

(ii)exempt him from surrendering pursuant to the sentence imposed in C.A.Nos.6,7 & 8 of 2017 by the learned VII Additional Sessions Judge, Chennai by judgment dated 31/10/2017 pending disposal of the above CRL RC.Nos.1471 to 1473/2017(IN CRL.M.P.Nos.14598,14601 & 14604 OF 2017)

Order : These petitions coming on for orders upon perusing the petitions and the Memorandum of Grounds in Crl.Revision Case Nos.1471 to 1473/2017 on the file of the High Court and upon hearing the arguments of M/S.SUNDERMOHAN, Advocate for the petitioner(IN ALL THE PETITIONS) the court made the following order:-

The petitioner herein was found guilty by the trial court / learned Metropolitan Magistrate, Fast Track Court No.III, Saidapet, in C.C.Nos.4227 of 2011, 1797 of 2012 and 1798 of 2012 and has been convicted and sentenced, in each of the three complaints, under the offence that is tabulated as hereunder:-

Convicted under the Offence	Sentenced
U/s.138 N.I.Act	to undergo simple imprisonment for a period of six months and to pay cheque amounts, as compensation.

2. Against the conviction and sentence passed by the trial court, the petitioner herein has filed Criminal Appeal Nos.6, 7 and 8 of 2017 on the file of learned VII Additional Sessions Judge, Chennai, wherein, the conviction and sentence were confirmed by judgments, dated 31.10.2017. Challenging the same, the Revision Petitioner has filed the present Criminal Revision Cases and pending Revisions, the petitioner has filed CrI.M.P.Nos.14596, 14599 and 14602 of 2017 seeking to suspend the sentence of imprisonment and CrI.M.P.Nos.14598, 14601 and 14604 of 2017 has been filed seeking to exempt the petitioner from surrendering before the trial court.

3. The main contention raised by the learned counsel appearing for the petitioner is that the initial presumption available in favour of the complainant stands rebutted, because of the admission made by the complainant during cross-examination that all the cheques were executed at the Police Station and that it is not proved that it was executed towards legally enforceable debt. In support of the said contention the learned counsel for the petitioner relied upon the decision reported in 2013 (1) MWN (Cr.) DCC 85 (Rajendran v. N.Radhakrishnan).

4. Further, the learned counsel for the petitioner submits that there are arguable points involved in the revisions and prayed for suspending the sentence imposed and to exempt the petitioner from surrendering before the trial court. It was also pointed out that 10% of the cheque amount has already been deposited before the appellate court and the petitioner herein will deposit another 10% of the amounts, involved under the cheque, within a period of six weeks from the date of receipt of a copy of this order.

5. Considering the facts and circumstances of the case and considering the fact that the revisions are not likely to be taken up for final hearing, in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence and exemption to surrender before the trial court, subject to terms.

6. Accordingly, the substantive sentence of imprisonment alone on the petitioner is suspended and the petitioner is directed to be enlarged on bail, upon the following conditions:-

(i) The petitioner herein shall deposit 10% of the cheque amount to the credit of the trial court, within a period of six weeks from the date of receipt of a copy of this order;

(ii) 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 Metropolitan Magistrate, Fast Track Court No.III, Saidapet;

(iii) 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 revisions.

7. As far as the applications 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 these petitions (Crl.M.P.Nos.14598, 14601 and 14604 of 2017) as prayed for. Accordingly, the petitioner is exempted from surrendering before the Court below.

-sd/-
22/11/2017

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 METROPOLITAN MAGISTRATE,
FAST TRACK COURT NO.III, SAIDAPET, CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

3 VII ADDITIONAL SESSIONS JUDGE,
CHENNAI

+6 C.C. to M/S.SUNDERMOHAN Advocate on payment of necessary charges Sr.Nos.21355,21356,21357, 21358,21359 & 21360

Order

in
CRL MPNos.14596,14598,14599,14601,
14602 & 14604 of 2017

IN CRL RC.Nos.1471 to 1473/2017

Date :22/11/2017

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

RVR 28/11/2017