

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirteenth day of December Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION No.14832 & 14834 of 2017

IN CRL RC.1491/2017

RAVINDRA KAMATH

[PETITIONER / APPELLANT]

Vs

N.JAYAMURUGAN

[RESPONDENT]

S/O.S.NAGALINGAM,

REP.BY HIS POWER OF ATTORNEY,

P.R.SUDHAKAR, S/O.RADHAKRISHNAN

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL RC.1491/2017 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence imposed on the petitioner by the judgement dated 31.10.2017 made in C.A.No.13 of 2017 by the learned XIX Additional Sessions Judge, City Civil Court, Chennai confirming judgement of the trial court dated 09.12.2016 in C.C.No.11036 of 2003 passed by the Honble III Fast Track Court Metropolitan Magistrate, Saidapet, Chennai-600 015 pending disposal of the above CRL RC.1491/2017 [IN CRL.MP.NO.14382 OF 2017]

[ii] dispense with the surrender of the petitioner, in consequence of the sentence imposed on the petitioner in C.C.No.11036 of 2003 dated 09.12.2016 by the III Fast Track Court Metropolitan Magistrate, Saidapet, Chennai-600 015, and confirmed by the learned XIX Additional Sessions Judge, City Civil Court, Chennai in C.A.No.13 of 2017 dated 31.10.2017, pending disposal of the above CRL RC.1491/2017 [IN CRL.MP.NO.14384 OF 2017]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL RC.1491/2017 on the file of the High Court and upon hearing the arguments of M/S.SUCHIT ANANT PALANDE, Advocate for the petitioner, the court made the following order:-

The petitioner / accused was found guilty by the trial court / III Fast Track Court, Metropolitan Magistrate, Saidapet, Chennai, in C.C.No.11036 of 2003 and has been convicted and sentenced under the offence that is tabulated as hereunder:-

<i>Convicted under the Offence</i>	<i>Sentenced</i>
U/s.138 N.I.Act	to undergo simple imprisonment for a period of six months and to pay the cheque amount, i.e., Rs.4,90,970.

2. As against the conviction and sentence passed by the trial court, the accused, as appellant, has filed Criminal Appeal No.13 of 2017 on the file of learned XIX Additional Sessions Judge, City Civil Court, Chennai, wherein, the conviction and sentence was confirmed by judgment, dated 09.12.2016. Challenging the same, the Revision Petitioner / accused has filed the present Criminal Revision Case and pending Revision, the petitioner/accused has filed Crl.M.P.Nos.14832 and 14834 of 2017 seeking to suspend the sentence of imprisonment and to dispense with the surrender of the petitioner / accused before the trial court.

3. The main contention raised by the learned counsel for the petitioner / accused is that the transaction of purchasing lottery ticket was between the father of the accused and the complainant and not between the petitioner and the complainant; however, there is an admission that the account number as found in the cheque is as that of the accused only. The learned counsel for the petitioner / accused further submitted that, to show the bonafides, the accused has already deposited 10% of the cheque amount. There is also an undertaking on behalf of the petitioner that a sum of Rs.1,00,000/- would be deposited within a period of six weeks from the date of receipt of a copy of this order. Further, the learned counsel for the petitioner submits that there are arguable points involved in this revision and prayed for suspending the sentence imposed and to dispense with the petitioner from surrendering before the trial court.

4. Taking into consideration the submissions made by the learned counsel for petitioner and that the Revision Case is not likely to be taken-up for final hearing in the near future and considering the grounds of revision, this Court is of the view that the petitioner herein may be granted the relief of suspension of sentence and exemption from surrendering, subject to the terms.

5. 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 a sum of Rs.1,00,000/- (Rupees one lakh only) 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 III Fast Track Court, Metropolitan Magistrate, Saidapet, Chennai - 15;

(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 revision.

6. As far as application to dispense with the surrender of the petitioner before the trial court 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 dispensed with from surrendering before the Court below.

7. List the Criminal Revision Case in the usual course.

-sd/-
13/12/2017

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 XIX ADDITIONAL SESSIONS
JUDGE, CITY CIVIL COURT, CHENNAI.

2 THE III FAST TRACK COURT
METROPOLITAN MAGISTRATE,
SAIDAPET, CHENNAI-600 015.

3 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI
[FOR INFORMATION]

+4C.C. to M/S.SUCHIT ANANT PALANDE Advocate on payment of
necessary charges SR NO.

Order

in
CRL MP.14832 & 14834 OF 2017

in
CRL RC.1491/2017

Date :13/12/2017

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

MK:18/12/2017