

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Fifteenth day of February Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice C. T. SELVAM

CRIMINAL MISCELLANEOUS PETITION No.150 of 2017

IN CRL RC.21/2017

SENTHILKUMAR

[PETITIONER]

Vs

STATE REP. BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
NANNILAM POLICE STATION,
TIRUVARUR DISTRICT.
CR.NO.81 OF 2013

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.21/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in the C.C.No.106/2013 dated 29.01.2015 on the file of the District Munsif cum Judicial Magistrate Court, Nannilam conformed in C.A.No.9/2015 dated 10.11.2016 on the file of District and Sessions Judge, Tiruvarur pending disposal of the above Crl.R.C.No.21/2017.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.21/2017 on the file of the High Court and upon hearing the arguments of M/S.T.MURUGANANTHAM, Advocate for the petitioner and of MR. M.MOHAMED RIYAZ, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

Petitioner was convicted for offences under Sections 304(A) (2 counts), 337 & 338 and sentenced him to 3 months each count S.I. for offence under Section 304(A) (2 counts) and fine of Rs.2,000/- each count i/d 1 month S.I., for offence under Section 337 IPC fine of Rs.250/- i/d one week S.I. and for offence under Section 338 IPC fine of Rs.500/- i/d one week by learned District Munsif cum Judicial Magistrate, Nannilam, under judgment in C.C.No.106 of 2013 dated 29.01.2015. The conviction and sentence imposed by trial Court was confirmed by learned District cum Sessions Judge, Nannilam, under judgment in C.A.No.9 of 2015 dated 10.11.2016. Hence, petitioner seeks suspension of sentence.

2. Learned counsel for petitioner submits that there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses. It is further

represented that there is no precondition requiring the petitioner's surrender or being in confinement in availing the relief of suspension of sentence under Section 397 Cr.P.C. in exercise of revisional powers by this Court. The decisions of the Honourable Apex Court in BIHARI PRASAD SINGH VS STATE OF BIHAR AND ANOTHER (2000 SCC (Cri) 1380) and that of the IBRAHIM VS STATE OF KERALA (1979 KLT 857) are relied upon in this regard.

3. Heard learned Government Advocate (Crl.side) on the submissions made by learned counsel for petitioner.

4. The above decisions have been relied upon time and again by this Court towards reaching the conclusion that in moving a revision against conviction, the accused need not surrender and undergo confinement before seeking the relief of suspension of sentence pending disposal of the Criminal Revision.

5. Therefore, in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the revision as contended by learned counsel for petitioner and further the revision is 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.

6. 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 in a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Nannilam and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending revision.

-sd/-
15/02/2017

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, NANNILAM

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVARUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
NANNILAM POLICE STATION,
TIRUVARUR DISTRICT.

5 THE DISTRICT AND SESSIONS
JUDGE, TIRUVARUR

6 THE OFFICER INCHARGE
SUB JAIL, NANNILAM.

C.C. to M/S.T.MURUGANANTHAM Advocate on payment of necessary
charges Sr.3344

Order

in
CRL MP.150/2017

in
CRL RC.21/2017

Date :15/02/2017

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RVR 20/02/2017