

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Second day of December Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION No.16596 of 2017

IN CRL RC.1613/2017

BALASUBRAMANIAN,

[PETITIONER]

Vs

STATE REP. BY
INSPECTOR OF POLICE,
PUDUSATRAM POLICE STATION,
CUDDALORE DISTRICT.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No. on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in Criminal Appeal No.24 of 2017 dated 04.10.2017 on the file of the Learned II Additional District and Sessions Judge, Chidambaram confirming the Sentence passed in C.C.No.177 of 2006 dated 02.03.2017 on the file of the Learned District Munsif Cum Judicial Magistrate Protonovo, pending disposal of the above Criminal Revision Case. (Crl.MP.No.16596/2017)

(ii) exemption to the petitioner from surrendering himself before the learned II Additional District and Sessions Judge, Chidambaram Criminal Appeal No.24/2017 dated 04.10.2017 confirming the Judgment and sentence imposed in C.C.No.177/2006 dated 2.3.2017 on the file of District Munsif cum Judicial Magistrate, Portonova, pending disposal of the above Crl.RC.No.1613/2017. (Crl.MP.No.16597/2017)

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.1613/2017 on the file of the High Court and upon hearing the arguments of M/S.R.BHARATH KUMAR, Advocate for the petitioner and of Public Prosecutor on behalf of the Respondent the court made the following order:-

The petitioner, who was found guilty by the trial court as well as by the appellate court, has been convicted and sentenced under the offence that is tabulated as hereunder:-

Convicted under the Offence	Sentenced
u/s 304 (A) (5 counts)	to undergo thirty months Rigorous Imprisonment with fine of Rs.15,000/- in default to undergo six months simple imprisonment.
u/ss. 337 and 338 (2 counts)	to undergo six months rigorous imprisonment with fine of Rs.3,000/- in default to undergo two months simple imprisonment.
u/s 279 IPC	to pay a fine of Rs.1,000/- in default to undergo one month simple imprisonment.

2. As against the convictions and sentences, the Revision Petitioner has filed the present Criminal Revision Case and pending Revision, the petitioner has filed CrI.M.P.Nos.16596 and 16597 of 2017 seeking to suspend the sentence of imprisonment and to exempt him from surrendering before the trial court.

3. The learned counsel for petitioner / accused submits that there are several infirmities and inconsistencies in the prosecution case. It is contended that there are contradictions in material particulars in the evidence of the prosecution witnesses. Further, the learned counsel for the petitioner submitted that there are arguable points involved in the revision and prayed for suspending the sentence imposed and to exempt the petitioner from surrendering before the trial court.

4. Heard learned Additional Public Prosecutor on the submissions made by learned counsel for petitioner.

5. Taking into consideration the submissions of the learned counsel appearing for both sides and considering the grounds of the Revision and considering the fact that the Revision is not likely to be taken up for final hearing, in the near future, this Court is of the view that the petitioner herein may be granted the relief of suspension of sentence and exemption him from surrendering before the trial court.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and petitioner herein is directed to be enlarged on bail on condition that the petitioner shall execute a bond in a sum of Rs.10,000/- each (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of learned District Munsif cum Judicial Magistrate, Protonovo, and on further condition that petitioners shall appear before the

said Court on the first working day of every month at 10.30 a.m. pending Revision.

7. 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** 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 exempted from surrendering before the Court below.

-sd/-

22/12/2017

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, PROTONOVO

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 STATE REP. BY
INSPECTOR OF POLICE, PUDUSATRAM POLICE
STATION, CUDDALORE DISTRICT.

+1 C.C. to M/S.R.BHARATH KUMAR Advocate on payment of
necessary charges Sr.No.23301

Order

in

CRL MP.16596/2017

in

CRL RC.1613/2017

Date :22/12/2017

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