

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Seventh day of September Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice R. SURESH KUMAR

CRIMINAL MISCELLANEOUS PETITION No.2011 of 2017

IN CRL RC.179/2017

JOTHI,

[PETITIONER]

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
C.C.I.W. C.I.D. POLICE STATION,
THIRUVANNAMALAI.
CR.NO.9 OF 2007

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to suspend the sentence and conviction imposed by the I Additional District and Sessions Judge Court Vellore vide its order dated 27/01/2017 made in C.A.No.142/2011 which Confirmed the Judgement dated 26/05/2011 passed by the Learned Judicial Magistrate Court No.II Vellore in C.C.No.69/2008 till the disposal of the above Crl.R.C.179/2017.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.V.R.APPASWAMEE, Advocate for the petitioner and of MR. R. SEKAR, Govt. Advocate (Crl. Side) on behalf of the Respondents the court made the following order:-

This petition has been filed to suspend the sentence and conviction imposed by the I Additional District and Sessions Judge, Vellore vide order dated 27.01.2017 made in C.A.No.142 of 2011 confirming the judgment dated 26.05.2011 passed by the learned Judicial Magistrate No.II, Vellore in C.C.No.69 of 2008. This revision petitioner had been convicted by the trial Court under Sections 408, 467, 471 and 477(A) of IPC. For the conviction under Section 408 he has been sentenced for six months Rigorous Imprisonment with fine of Rs.1,000/- (One thousand only) in default one month Simple Imprisonment. Also he has been convicted under Section 467 of IPC for a period of six months Rigorous Imprisonment with fine of Rs.1,000/- in default one month Simple Imprisonment and also punished under Section 471 of IPC for a period of six months Rigorous Imprisonment with fine of Rs.1,000/- in default one month Simple Imprisonment and also

punished under Section 477(A) of IPC for a period of six months Rigorous Imprisonment with fine of Rs.1,000/- in default one month Simple Imprisonment.

2. As against the said judgment, the petitioner had filed an appeal before the first Appellate Court, where the Appellate Court passed final order on 27.01.2017, wherein in the operative portion of the judgment, the first Appellate Court has stated as follows:

"In the result, the appeal is partly allowed and partly dismissed".

The conviction and sentence passed by the trial Court in C.C.No.69 of 2008 on 26.05.2011 were confirmed.

3. From the reading of the said operative portion of the order of the first Appellate Court, it cannot be concluded which portion of the appeal has been allowed and which portion of the appeal has been dismissed.

4. Like that, in the very first page of the judgment, in the format, in column, whether confirmed, modified or reversed and if modified the modification, it is mentioned as partly confirmed and partly reversed. From the reading of these conclusion arrived at by the first Appellate Court, it cannot be concluded that whether the Judgment of the trial Court has been confirmed in full or if it is reversed, which part got reversed.

5. In view of these controversy which has to be ascertained, however in the mean while, the substantive sentence imposed against the petitioner alone is suspended on the petitioner executing a bond for a sum of Rs.10,000/- with two sureties for a like sum for each to the satisfaction of the learned Judicial Magistrate No.II, Vellore within a period of two weeks from the date of receipt of a copy of this order and also the petitioner shall appear before the said Magistrate Court on the first working day of every English calender month at 10.30 a.m until further orders.

-sd/-
07/09/2017

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 JUDICIAL MAGISTRATE,
COURT. NO.II, VELLORE

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE ADDITIONAL DISTRICT
SESSIONS, JUDGE, VELLORE

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
C.C.I.W. C.I.D. POLICE STATION,
THIRUVANNAMALAI.

+1 C.C. to M/S.V.R.APPASWAMEE Advocate on payment of
necessary charges SR.NO. 17294

Order

in
CRL MP.2011/2017

in
CRL RC.179/2017

Date :07/09/2017

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TA-24/10/2017