

Crl.M.P.No.228 of 2017

in

Crl.R.C.No.25 of 2017

C.T.SELVAM, J

Petitioner was convicted for offences under sections 294(b), 448, 506(i) IPC and Section 3(1) of TNPPDL Act and sentenced as follows:

<i>Sections of law</i>	<i>Sentence</i>
294(b) IPC	1 month S.I.
448 and 506(i) IPC	6 months S.I.
3(1) of TNPPDL Act	1 year S.I. and fine of Rs.20,000/- i/d 3 months S.I. Out of Rs.20,000/-, a sum of Rs.11,500/- was directed to be paid as compensation to PW-1

by learned Assistant Sessions Judge, Thiruvapur, under judgment in S.C.No.6 of 2015 dated 18.02.2016. The appeal preferred by petitioner in C.A.No.5 of 2016 on the file of learned Principal District and Sessions Judge, Thiruvapur, came to be dismissed under judgment dated 07.12.2016. 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 Assistant Sessions Judge, Thiruvavarur District 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.

06.01.2017

(2/3)

Note to office:
Issue order copy by 09.01.2017

gm

C.T.SELVAM, J

gm

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