

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Eighth day of August Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice R. SURESH KUMAR

CRIMINAL MISCELLANEOUS PETITION No.4977 of 2017

IN CRL RC.556/2017

SUNDARARAJAN,

[PETITIONER]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE
KORADACHERRY POLICE STATION
THIRUVARUR, DISTRICT
CR.NO.324 OF 2010.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.R.C.No.556/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence suspend the sentence passed by the District & Sessions Court, Thiruvarur in C.A.No.10 of 2016 dated 21.12.2016 by confirming the order of conviction passed by the Judicial Magistrate Court, Thiruvarur in C.C.No.183 of 2011 dated 06.08.2016 by convicting the petitioner till the disposal of the Criminal Revision Petition filed before this Honble Court.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.R.C.No.556/2017 on the file of the High Court and upon hearing the arguments of M/S.K.M.SUBRAHMANYAM, Advocate for the petitioner and of MR.C. IYYAPPARAJ, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

This petition has been filed to suspend the sentence imposed against the petitioner.

2.The learned counsel appearing for the petitioner has invited attention of this Court on the contradiction in the deposition of P.W.1, P.W.2 and P.W.3 regarding the exact occurrence and the place.

3.He also urged the point that admittedly, there is a delay

in filing an FIR and also, there is a strong motive against the accused because of some demand was made by the accused from the P.W.1's family for rendering some agricultural service to P.W.2, the father of the victim.

4.By inviting the attention of this Court, on this aspect, the learned counsel appearing for the petitioner urged that this contradictory have not been considered by the Court below in proper perspective and therefore, there are arguable points available in this Revision.

5.On the other hand, Mr.C.Iyyapparaj, learned Additional Public Prosecutor appearing for the respondent has stated that though there is a delay in filing FIR, that can not be a fatal to the prosecution case, also with regard to the alleged contradiction in the deposition of the prosecution witnesses, i.e., P.W.1 to P.W.3., such contradictions are also not fatal to the prosecution case and at any rate, since the same has been considered and held concurrently by the Courts below, the same can not be confronted, at this juncture.

6.I have considered the rival submissions made by both sides and it is informed by the learned Additional Public Prosecutor that the petitioner/accused surrendered before the Court below on 31.07.2017 and accordingly, he is in jail now.

7.As pointed out by the learned counsel appearing for the petitioner, since some arguable points are available for the petitioner to challenge the prosecution case and the conviction inflicted on the petitioner and it will take some time to decide the main revision case, this Court is of the view that this petition, at this juncture, can be considered.

Accordingly, there shall be an order of suspension of substantial sentence alone and the petitioner/accused shall be released on bail by executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate, Thiruvarur and further condition that the petitioner shall appear before the concerned Magistrate Court on the first working day of every English calender month, until further orders.

-sd/-

08/08/2017

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,
THIRUVARUR

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVARUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATE REP BY ITS,
THE INSPECTOR OF POLICE KORADACHERRY POLICE
STATION THIRUVARUR, DISTRICT CR.NO.324 OF
2010.

+1 C.C. to M/S.K.M.SUBRAHMANIAM Advocate on payment of
necessary charges Sr.No.15041

Order
in
CRL MP.4977/2017
in
CRL RC.556/2017

Date :08/08/2017

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MD: 09/08/2017