

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Nineteenth day of January Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice M. VENUGOPAL

CRIMINAL MISCELLANEOUS PETITION No.71 of 2017

IN CRL.A.No.9/2017

SATHIYAMURTHY

[PETITIONER]

Vs

STATE BY

[RESPONDENT]

ASSISTANT COMMISSIONER OF POLICE,
PULIANTHOPE RANGE,
CHENNAI-600 012.
CR.NO.1116/06.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.9 of 2017 on the file of the High Court, the High Court will be pleased to suspend the execution of the sentence imposed in the Judgment dated. 27.12.2016 and made in S.C.No.159/2015 on the file of the Mahalir Neethimandram, Chennai (the Court of Sessions Judge, Chennai-104) and enlarge the petitioner on bail pending disposal of the above Crl.A.No.9 of 2017.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.9 of 2017 on the file of the High Court and upon hearing the arguments of M/S.N.SANKARAVADIVEL, Advocate for the petitioner and of MR.R.RAVICHANDRAN, Government Advocate (Crl.Side) on behalf of the Respondents the court made the following order:-

Heard both sides.

2. The Petitioner / Appellant / A.1 has preferred the present Criminal Appeal before this Court as against the Judgment dated 27.12.2016 in S.C.No.159 of 2015 passed by the Learned Sessions Judge, (Mahila Court) Chennai. The trial court had found the Petitioner / Appellant / A.1 guilty in respect of an offence under Sections 498A and 306 of IPC and imposed a punishment of two years Rigorous Imprisonment in respect of an offence under Section 498A of IPC and also imposed a fine of Rs.3,000/- in default of payment of fine, he was directed to undergo further three months Rigorous Imprisonment.

3. Insofar as the offence under Section 306 of IPC was concerned, the Petitioner / Appellant / A.1 was convicted and sentenced to undergo Five Years Rigorous Imprisonment, with the fine of Rs.10,000/-, in default of payment of said fine, he was directed to undergo Six Months Rigorous Imprisonment. In fact the sentences were ordered to run concurrently.

4. The Petitioner / Appellant / A.1 being dis-satisfied with the Judgment of the trial court in S.C.No.159 of 2015 dated 27.12.2016 has focussed the present Criminal Appeal by raising numerous grounds and on perusal of the same, this Court finds that the Petitioner / Appellant /A.1 has raised some arguable / tangible points which require detail examination at the time of hearing of the final Appeal.

5. It is to be noted that in Law, filing of an 'Appeal' is continuation of original proceedings namely that of the original proceedings viz., that of the trial court. Admittedly, the Petitioner / Appellant / A.1 has exercised his right of preferring an Appeal as envisaged under the Criminal Procedure Code. It is to be remembered that filing of a petition seeking 'Suspension of Sentence' and to enlarge the Petitioner on Bail forms an integral part of the main Appeal as opined by this Court.

6. It is represented on behalf of the Petitioner / Appellant / A.1 that the Petitioner / Appellant / A.1 had remitted a total fine amount of Rs.13,000/- before the trial court to the credit of S.C.No.159 of 2015.

7. Per contra, it is the submission of Learned Government Advocate (Crl.Side) that before the trial court, in the main case, on behalf of the Respondent / Prosecution, witnesses P.W.1 to P.W.13 were examined and Ex.P.1 to P.16 were marked. Further, M.O.1 to M.O.3 were marked.

8. At this stage, it is represented on behalf of the Respondent / Complainant that the trial court had considered the entire gamut of available oral and documentary evidence on record and ultimately found the Petitioner / Appellant / A.1 guilty in respect of an offence under Sections 498(A) and 306 of IPC and imposed necessary punishment.

9. Be that as it may, in view of the fact that the Petitioner / Appellant / A.1 has preferred the instant Criminal Appeal before this Court and also this Court taking note of the fact that an 'Appeal' is continuation of original proceedings in Law, viz., that of the trial court proceedings in S.C.No.159 of 2015 and also this Court bearing in mind yet another fact that the present Criminal Appeal is not likely to be heard in the near future and also considering the facts and circumstances of the present case in a cumulative fashion, at this juncture, is inclined to suspend the substantial Sentence of Imprisonment alone and directs the release

of the Petitioner/ Appellant on his executing a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties each for a likesum to the satisfaction of the Learned Sessions Judge, (Mahila Court) Chennai and on further condition that he shall appear before the said Court on the 1st Working day of every English calendar month at 11.00 a.m. without fail till the disposal of the Criminal Appeal.

Accordingly, this Miscellaneous Petition is ordered.

-sd/-
19/01/2017

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 SESSIONS JUDGE,
[MAHILA COURT], CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI-66.

4 THE ASSISTANT COMMISSIONER OF POLICE,
PULIANTHOPE RANGE, CHENNAI-600 012.

+1C.C. to M/S.N.SANKARAVADIVEL Advocate on payment of
necessary charges SR.NO.1222

Order

in
CRL MP.71/2017

in
CRL A.9/2017

Date :19/01/2017

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MK:19/01/2017