

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Thirty First day of October Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION No.8058 & 8059 of 2017

IN CRL RC.862/2017

G.SUSEELA

[PETITIONER]

Vs

1 R. JAGAN

[RESPONDENTS]

2 V. NARAYANAN,

Petitions praying that in the circumstances stated therein the High Court will be pleased to

(i) To supend the sentence imposed upon the petitioner by the learned judicial magistrate, No. 1, pollachi, in C.C.No. 350 of 2002 by a judgement dated 20.01.2011.[IN CRL.MP.8058/2017]

(ii) To exempt the petitioner from surrendering before the learned judicial magistrate, No.1, pollachi in C.C.No.350 of 2002 by judgement dated 20.01.2011.[IN CRL.M.P.8059/2017]

Order : These petitions coming on for orders upon perusing the petition and upon hearing the arguments of M/S.R.JOHN SATHYAN, Advocate for the petitioner and of MR.C.R.PRASANNA On behalf of the respondent the court made the following order:-

The Criminal Revision has been filed by the Petitioner/accused in C.C.No.350 of 2002 before the learned Judicial Magistrate No.1, Pollachi and the appellant before the learned IV Additional District & Sessions Judge, Coimbatore. The petitioner/accused has been convicted and sentenced under the respective offences, which are tabulated as hereunder:-

convicted under the offence	Sentenced
U/s.138 of N.I.Act	To undergo simple imprisonment for one year and fine amount Rs.5,000/- in default to undergo simple imprisonment for two months.

Against the conviction and sentence passed by the trial court, the accused as appellant has filed Criminal Appeal No.30 of 2011 on the file of the First Appellate Court. In the appellate Court, the conviction and sentence were confirmed by Judgment dated 05.12.2015 and the appeal filed by the accused has been dismissed. Challenging the same, the Revision Petitioner/accused has filed the present Criminal Revision Case and pending revision, he has

filed CrI.M.P.8058 of 2017 seeking to suspend the sentence and to enlarge him on bail and CrI.M.P.No.8059 of 2017 to exempt him from surrendering before the trial court.

2. Mr.C.R.Prasanna, learned counsel is appearing for the respondent.

3. It is submitted by the learned counsel appearing for the Revision Petitioner that the accused will be willing to deposit the amount, as ordered by this Court, as a pre-condition for suspending the sentence. He further submitted that the petitioner/accused has paid the fine amount of Rs.5000/-.

4. Considering the above submission of the learned counsel appearing for the Revision Petitioner/accused and also considering the fact that there are arguable points involved in this revision, this court is inclined to grant the relief of suspension of sentence, on terms, pending Criminal Revision.

5. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on the following conditions:-

(i) that the petitioner/accused is directed to deposit the 25% of the amount payable under the cheque, to the credit of C.C.No.350 of 2002 on the file of Judicial Magistrate No.1, Pollachi within a period of three weeks from the date of receipt of a copy of this order;

(ii) that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.1, Pollachi;

(iii) that the petitioner shall appear before the said learned Magistrate on the first working day of every English Calendar month at 10.30 a.m., pending Revision.

6. 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/-

31/10/2017

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 IV ADDITIONAL DISTRICT
SESSIONS JUDGE, COIMBATORE.

2 THE JUDICIAL MAGISTRATE,
NO. 1, POLLACHI

3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE DISTRICT. [FOR INFORMATION]

4 THE ASSISTANT REGISTRAR
TAMILNADU MEDIATION AND CONCILIATION CENTRE,
HIGH COURT, MADRAS.

+1C.C. to M/S.R.JOHN SATHYAN Advocate on payment of
necessary charges SR.NO. 20172

Order

in
CRL MP.8058 & 8059/2017

in
CRL RC.862/2017

Date :31/10/2017

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EGR 09/11/2017