

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Third day of August Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice N. AUTHINATHAN

CRIMINAL MISCELLANEOUS PETITION No.9098 of 2017

IN CRL A.430/2017

1 APPU @ ILLAVAZAHGAN, [PETITIONER]
2 MANOJ

Vs

THE STATE REP BY ITS, [RESPONDENT]
THE INSPECTOR OF POLICE,
V-4 RAJAMANGALAM POLICE STATION,
CHENNAI CR.NO.1250 OF 2013.

Petition praying that in the circumstances stated therein the High Court will be pleased To suspend the sentence passed by the XVII Additional Sessions Judge (FAC), chennai in S.C.No.73/2014 dated 12.07.2017 till disposal of this Appeal.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.K.KANNAN, Advocate for the petitioner and of MR.R. SEKAR, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

The petitioners are the first and 2nd accused in S.C.No.73 of 2014 on the file of the learned XVII Additional Sessions Judge (FAC), Chennai. The first accused was charged for the offences under Section 341, 294(b), 307 and 506(2) r/w 34 IPC and the 2nd accused was charged for the offences under Section 341, 307 and 506(2) r/w 34 IPC. They pleaded not guilty. However, the Trial Court has found the first accused guilty under Section 341 and 326 IPC and sentenced him to undergo simple imprisonment for one month and to pay a fine of Rs.200/-, in default to undergo 7 days simple imprisonment for the offence under Section 341 IPC; and sentenced to undergo rigorous imprisonment for 7 years and to pay a fine of Rs.5,000/-, in default to undergo 6 months simple imprisonment for the offence under Section 326 IPC. The Trial Court has found the 2nd accused guilty under Section 341, 326 r/w 34 IPC and sentenced him to undergo simple imprisonment for one month and to pay a fine of Rs.200/-, in default to undergo 7 days simple imprisonment for the offence under Section 341 IPC; and sentenced to undergo rigorous imprisonment for 7 years and to pay a fine of Rs.5,000/-, in default to undergo 6 months simple imprisonment for the offence under Section 326 r/w 34 IPC. Aggrieved by the judgment of conviction and sentence, they preferred an appeal. Pending

disposal of the appeal, they filed the present petition for bail by suspending the sentence.

2. The learned counsel appearing for the petitioner would submit that there are material contradictions in the evidence of the alleged injured and the Trial Court has failed to take note of the contradictions and has come to a wrong conclusion.

3. The learned Government Advocate (Crl. Side) opposed the application stating that after appreciation of evidence, the Trial Court had recorded the correct finding.

4. I have perused the judgment of the Trial Court and the grounds taken in the appeal. There are arguable point in the appeal. The petitioners were convicted to a fixed period of 7 years. During the trial, they were on bail. Having regard to these circumstances, I am inclined to suspend the substantive sentence alone, subject to the following condition.

5. The substantive sentence of imprisonment imposed on the petitioners by the Trial Court alone is hereby suspended till the disposal of the appeal and the petitioners are ordered to be enlarged on bail on their executing a bond for Rs.5,000/- each [Rupees Five thousand only] with two sureties each for a like sum to the satisfaction of the learned XVII Additional Sessions Judge, (FAC), Chennai within a period of two weeks from the date of receipt of a copy of this order and further condition that the petitioners shall report before the said Court on first working day of every month at 10.30 a.m. until further orders.

-sd/-

23/08/2017

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 XVII ADDITIONAL SESSIONS
JUDGE (FAC), CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE, V-4 RAJAMANGALAM
POLICE STATION, CHENNAI

+1C.C. to M/S.K.KANNAN Advocate on payment of necessary
charges SR.NO. 16094

Order

in
CRL MP.9098/2017

in
CRL A.430/2017

Date :23/08/2017

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EGR 29/08/2017