

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Fourteenth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.V. MURALIDARAN

CRIMINAL MISCELLANEOUS PETITION No.1022 of 2018

IN CRL RC.138/2018

M.KATHIRAVAN

[PETITIONER]

Vs

C.S.SRINIVASAN,

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.138/2018 on the file of the High Court, the High Court will be pleased to suspend the execution of the sentence passed by the I Additional District and Sessions Judge, Coimbatore in C.A.No.70 of 2015 dated 21.07.2017, confirming the Judgment passed by the Judicial Magistrate, Fast Track Court at Magisterial level-II, Coimbatore in STC No.236 of 2012, dated 24.02.2015 and the petitioner may be released on bail pending disposal of the above Crl.Revision Case No.138/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.138/2018 on the file of the High Court and upon hearing the arguments of MR.KRISHNAN Advocate for MR.L.THIYAGAIYA, Advocate for the petitioner and of the court made the following order:-

Petitioner was convicted for offences under Section 138 of Negotiable Instruments Act and sentenced to undergo ten months S.I and to pay a fine of Rs.2,000/- i/d to undergo 1 month S.I. by learned Judicial Magistrate, Fast Track Court, Magesterial Level-II, Coimbatore, under judgment in S.T.C.No.236 of 2012 dated 24.02.2015. The appeal preferred by petitioner in C.A.No.70 of 2015 on the file of I Additional District and Sessions Jude, Coimabatore, came to be dismissed under judgment dated 21.07.2017. Hence, petitioner seeks suspension of sentence.

2. Learned counsel for petitioner would submit that there are several infirmities and inconsistencies found in the case. It is contended that there are contradictions in the material particulars between the evidence of the 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, the 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 case and there are arguable points involved in the revision, as contended by learned counsel for petitioners, 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 for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of learned Judicial Magistrate, Fast Track Court, Magisterial Level-II, Coimbatore, and on further condition that the petitioner shall deposit 50% of the cheque amount before the learned Judicial Magistrate, Fast Track Court, Magisterial Level-II, Coimbatore, within a period of two weeks and also the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending revision.

-sd/-
14/02/2018

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 I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, COIMBATORE.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT, MAGISTERIAL LEVEL-II,
COIMBATORE.

3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE. [FOR INFORMATION]

C.C. to M/S.L.THIYAGAIYA Advocate on payment of necessary
charges

Order

in
CRL MP.1022/2018

in
CRL RC.138/2018

Date :14/02/2018

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MLT-16/02/2018