

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirty First day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.V. MURALIDARAN

CRIMINAL MISCELLANEOUS PETITION No.1048 of 2018

IN CRL RC.143/2018

JAYANTHI LAKSHMI NARAYANAN [PETITIONER]

Vs

P.LAKSHMANA PERUMAL, [RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.143/2018 on the file of the High Court, the High Court will be pleased to suspend the substantial sentence of imprisonment alone imposed in CC No.16607/2005 on 31.12.2010 by the learned Chief Metropolitan Magistrate, Egmore, Chennai having been confirmed by the learned IV Additional Sessions Judge Chennai on 21.12.2017 in CA No.12 of 2011 and enlarge the petitioner on bail pending disposal of the criminal revision petition.[CRL.MP.NO.1048/2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.143/2018 on the file of the High Court and upon hearing the arguments of M/S.C.S.DHANASEKARAN, Advocate for the petitioner , the court made the following order:-

Petitioner was convicted for offences under Section 138 of Negotiable Instruments Act and sentenced to six months S.I and to compensation of Rs.2,00,00,000/- ie., the cheque amount to be paid to the complainant within one month by the learned Chief Metropolitan Magistrate, Egmore, Chennai under judgment in C.C.No.16607 of 2005 dated 31.12.2010. The appeal preferred by petitioner in C.A.No.12 of 2011 on the file of learned IV Additional Sessions Jude, City Civil Court, Chennai came to be dismissed under judgment dated 23.12.2017. Hence, petitioner seeks suspension of sentence.

2. Learned counsel for petitioner submits that there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in the material particulars between the evidence of the prosecution 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 learned Government Advocate (Crl.side) on the submissions made by 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 prosecution case and there are arguable points involved in the revision as contended by learned counsel for petitioner and further the revision is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

6. In view of the above, there shall be an order of interim suspension of sentence for a period of four weeks on condition that the petitioner shall execute a bond in a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Chief Metropolitan Magistrate, Egmore, Chennai and on further condition that the petitioner shall deposit 50% of the cheque amount before the learned Chief Metropolitan Magistrate, Egmore, Chennai 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/-
31/01/2018

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 CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI

2 THE IV ADDITIONAL SESSIONS
JUDGE,CITY CIVIL COURT,CHENNAI

+1 C.C. to M/S.C.S.DHANASEKARAN Advocate on payment of
necessary charges SR.NO. 2208

Order

in
CRL MP.1048/2018

in
CRL RC.143/2018

Date :31/01/2018

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