

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Fourth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice C. T. SELVAM

CRIMINAL MISCELLANEOUS PETITION No.15777 of 2017

IN CRL RC.1565/2017

A.RAVICHANDRAN @ MINNAL RAVI [PETITIONER]

Vs

DAVY SURESH KUMAR [RESPONDENT]
S/O.DONY RAJAN, NO.3A/7,
THANGAL ULVAI STREET,
VIRUGAMBAKKAM, CHENNAI-600 092.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.1565/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment imposed on the petitioner by the learned Metropolitan Magistrate (Fast Track-2) Egmore at Allikulam, Chennai-3 by judgment dated 06.03.2017 in C.C.No.387 of 2013 which is modified by the learned XVII Additional Sessions Judge, Chennai in C.A.No.86 of 2017 pending disposal of the above criminal revision petition.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.1565/2017 on the file of the High Court and upon hearing the arguments of M/S.R.KARUNAKARAN, Advocate for the petitioner, the court made the following order:-

The petitioner was convicted for an offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo one year simple imprisonment and to pay a sum of Rs.17,92,000/- as compensation by the learned Metropolitan Magistrate, Fast Track-2, Egmore, Allikulam, under judgment dated 06.03.2017 in C.C.No.387 of 2013. Challenging such order, petitioner/accused moved C.A.No.86 of 2017 before the learned XVII Additional Judge, City Civil Court, Chennai-600 001. Under orders dated 23.11.2017, Trial Court, while confirming the conviction and sentence imposed on the accused, modified the compensation from Rs.17,92,000/- to Rs.8,96,000/-, in default, to undergo 3 months

S.I. Hence, the petitioner seeks suspension of sentence.

2. Learned counsel 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 Additional Public Prosecutor on the submissions made by learned counsel for the 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 the learned counsel for the 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. 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/- each (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Metropolitan Magistrate, Fast Track-2, Egmore at Allikulam, Chennai-3, and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending revision.

-sd/-

04/01/2018

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 XVII ADDITIONAL
SESSIONS JUDGE, CHENNAI

2 THE METROPOLITAN
MAGISTRATE (FAST TRACK 2) EGMORE, AT
ALLIKULAM, CHENNAI 3

3 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

+1 C.C. to M/S.R.KARUNAKARAN Advocate on payment of
necessary charges Sr.No.158

Order
in
CRL MP.15777/2017
in
CRL RC.1565/2017

Date :04/01/2018

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MD: 08/01/2018