

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Tenth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice C. T. SELVAM

CRIMINAL MISCELLANEOUS PETITION No.120 of 2018

IN CRL RC.24/2018

1 MOHANRAJ, [PETITIONER]
2 CHANDRABABU @ RAMAKRISHNAN
3 RAJ,

Vs

THE STATE REP BY [RESPONDENT]
THE SUB-INSPECTOR OF POLICE,
W-2, ALL WOMEN POLICE STATION,
TRIPLICANE DISTRICT,
ANNASALAI, CHENNAI-600 002.
CR.NO.3 OF 2007.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.24/2018 on the file of the High Court, the High Court will be pleased to suspend the execution of the sentence passed in Crl.A.No.278 of 2016 dated 19.07.2017 on the file of the XVI Additional Sessions Judge, CCC at Chennai, confirming the Judgement of Chief Metropolitan Magistrate at Egmore, Chennai on 03.11.2016 in C.C.No.5679 of 2007 and enlarge the petitioners on bail 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.24/2018 No. on the file of the High Court and upon hearing the arguments of M/S.S.MADHUSUDANAN, Advocate for the petitioner and of MR.V. ARUL, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

Petitioners faced trial in C.C.No.5679 of 2007 on the file of learned Chief Metropolitan Magistrate, Egmore, Chennai-600 008. Trial Court, under judgment dated 03.11.2016, convicted petitioners/A1 to A3 for offences u/s.498-A IPC and Section 4 of D.P.Act and sentenced them to undergo six months R.I. each for offence u/s 498-A IPC and to undergo 6 months R.I.each and to pay fine of Rs.1,000/- each, in default one month S.I. each for offence u/s 4 of D.P.Act. There against, petitioners preferred an appeal in C.A.No.278 of 2016 on the file of learned XVI Additional Sessions Judge, XVI Additional City Civil Court, Chennai, which came to be dismissed under judgment dated 19.07.2017. This miscellaneous petition has been filed seeking suspension of sentence.

2. Learned counsel for petitioners 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 petitioners' 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 petitioners.

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 petitioners 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 petitioners herein are entitled to the relief of grant of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are directed to be enlarged on bail 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 petitioners shall appear before the said Court on the first working day of every month at 10.30 a.m. pending revision.

-sd/-
10/01/2018

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 XVI ADDITIONAL SESSIONS
JUDGE, XVI ADDITIONAL CITY CIVIL COURT,
CHENNAI

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATE REP BY
THE SUB-INSPECTOR OF POLICE, W-2, ALL WOMEN
POLICE STATION, TRIPPLICANE DISTRICT,
ANNASALAI, CHENNAI-600 002. CR.NO.3 OF 2007.

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

Order
in
CRL MP.120/2018
in
CRL RC.24/2018
Date :10/01/2018

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

MD: 22/01/2018