

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Tuesday, the Twentieth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.V. MURALIDARAN

CRIMINAL MISCELLANEOUS PETITION No.1208 of 2018

IN CRL A.357/2016

GNANASIGAMANI,

[ PETITIONER ]

Vs

THE STATE OF TAMIL NADU  
THE INSPECTOR OF POLICE  
VELLANKOIL POLICE STATION,  
THIRUPPUR, DISTRICT.  
CR.NO.392 OF 2013.

[ RESPONDENT ]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal [\*]Appeal Case No.357/2016 on the file of the High Court, the High Court will be pleased to suspend the sentence passed by the Learned Sessions Judge Magalir Neethimandram (Fast Track Mahila court), Thiruppur in Spl.S.C.No.12 of 2014 dated 12.04.2016 and enlarge the petitioner on bail pending the disposal of the above Criminal Appeal No.357 of 2016. [CRL.MP.NO.1208/2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.[\*]Appeal Case No.357/2016 on the file of the High Court and upon hearing the arguments of M/S.M.DEVARAJ, Advocate for the petitioner and of MR.T.P.SAVITHA Government Advocate[crl.side]on behalf of the Respondent the court made the following order:-

Petitioner was convicted for offences under Section 3 r/w 4 of POSCO Act and sentenced to 10 years R.I and to pay a fine of Rs.50,000/- in default to undergo one year S.I by the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court) Thiruppur, in Spl.S.C.No.12 of 2014 dated 12.04.2016. Hence, petitioner seeks suspension of sentence.

2. Learned counsel for the 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. The learned Government Advocate (Crl.side) would strongly object for granting suspension of sentence and the deceased is aged about 15 years at the time of occurrence.

4. The above decisions have been relied upon time and again by this Court towards reaching the conclusion that in moving a [\*]Appeal against conviction, the accused need not surrender and undergo confinement before seeking the relief of suspension of sentence pending disposal of the Criminal[\*]Appeal.

5. Therefore, in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the [\*]Appeal as contended by learned counsel for petitioner and further the [\*]Appeal 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. Apart from this, the petitioner/appellant is now aged about 80 years and he is in jail for the past two years, i.e. 12.04.2016 and also suffering from various illness.

7. Accordingly, the substantive sentence of imprisonment alone is suspended and 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 Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court) Thiruppur 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 [\*]Appeal.

-sd/-  
20/02/2018

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.

**[\*]BEING MENTIONED AS PER THE DATED OF THIS COURT 22/02/2018 MADE IN  
CRL.MP.NO.1208/2018 IN CRL.A.357/2016**

TO

1 THE SESSIONS JDUGE  
MAGALIR NEETHIMANDRAM[FAST TRACK MAHILA  
COURT] THIRUPPUR

2 THE CHIEF JUDICIAL MAGISTRATE  
THIRUPPUR[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE STATE OF TAMIL NADU  
THE INSPECTOR OF POLICE  
VELLANKOIL POLICE STATION,  
THIRUPPUR, DISTRICT.

5 THE SUPERINTENDENT  
CENTRAL PRISON,COIMBATORE

+1 C.C. to M/S.M.DEVARAJ Advocate on payment of necessary  
charges SR.NO. 3717

Order

in  
CRL MP.1208/2018

in  
CRL A.357/2016

Date :20/02/2018

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