

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Eighth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.V. MURALIDARAN

CRIMINAL MISCELLANEOUS PETITION No.1694 of 2018

IN CRL RC.188/2018

S.ARUL PRAKASAM

[PETITIONER/ACCUSED]

Vs

V.JAYAPAL

[RESPONDENT/COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.188/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner in C.A.No.281 of 2017 on the file of the VI Addl Sessions Judge, CCC, Chennai dated 22/01/2018 confirming the conviction and sentences passed by the Fast Track Court No.II, M.M.Allikulam, Chennai in C.C.No.797 of 2016 dated 31/08/2017 and pass such further order or other order. [CRL.MP.NO.1694/2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.188/2018 on the file of the High Court and upon hearing the arguments of M/S.C.V.KUMAR, Advocate for the petitioner the court made the following order:-

Petitioner was convicted for an offence under Section 138 of the Negotiable Instruments Act, sentenced to undergo one year S.I. and directed to pay compensation for a sum of Rs.2,00,000/- to the complainant i/d to undergo S.I. for another term of three months, by learned Metropolitan Magistrate, Fast Track Court II, Egmore at Allikulam, Chennai - 3, under judgment dated 31.08.2017 in C.C.No.797 of 2016. The conviction and sentence imposed by the trial Court was confirmed by learned VI Additional Sessions Judge, City Civil Court, Chennai, under orders in C.A.No.281 of 2017 dated 22.01.2018. Hence, the 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 Metropolitan Magistrate, Fast Track Court II, Egmore at Allikulam, Chennai - 3, and on further condition that the petitioner shall deposit 50% of the cheque amount before the learned Metropolitan Magistrate, Fast Track Court II, Egmore at Allikulam, Chennai - 3, within a period of eight 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/-

08/02/2018

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 METROPOLITAN,
MAGISTRATE, FAST TRACK COURT-II, EGMORE AT
ALLIKULAM, CHENNAI-3

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE [FOR INFORMATION]

3 THE VI ADDDITIONAL SESSIONS
JUDGE,CITY CIVIL COURT,CHENNAI

+1 C.C. to M/S.C.V.KUMAR Advocate on payment of necessary
charges SR.NO. 2881

Order

in
CRL MP.1694/2018

in
CRL RC.188/2018

Date :08/02/2018

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RD 13/02/2018