

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.17 & 18 of 2018

IN CRL RC.2/2018

RAVI,

[ PETITIONER  
IN CRL.MP.NOS.17 & 18/2018]

Vs

THE STATE REP BY ITS,  
THE SUB INSPECTOR OF POLICE,  
DUSI POLICE STATION,  
THIRUVNANAMALAI DISTRICT  
CR.NO.9 OF 2006.

[ RESPONDENT  
IN BOTH THE PETITIONS]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.2 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence

[I]Suspend the sentence and conviction imposed by the Additional District Judge.[Fast Track court],Arni, Thiruvannamalai District vide its order dated 16.11.2017 made in C.A.No.3 of 2010 which confirmed the Judgment dated 26.05.2010 passed by the principal District Munsif cum Judicial Magistrate No.I,Cheyvar, Thiruvannamalai District in C.C.No.33 of 2007, till the disposal of the above criminal Revision Petition and enlarged him on bail and thus render justice.[CRL.MP.17 OF 2018]

[II]pass an order of exemption the surrender of the petitioner before the Principal District Munsif cum Judicial Magistrate No.I,Cheyvar, Thiruvannamalai District in C.C.NO.33 of 2007, in pursuance with the order of dismissal passed in the Appeal filed by the petitioner in C.A.No.3 of 2010 passed by the Additional Distict Judge,[Fast Track Court],Arni, Thiruvannamalai District and thus render justice.[CRL.MP.NO.18 OF 2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.2 OF 2018 on the file of the High Court and upon hearing the arguments of M/S.V.R.APPASWAMEE Advocate for the petitioner , the court made the following order:-

Petitioner / Sole Accused faced trial in C.C.No.33 of 2007 on the file of learned Principal District Munsif-cum-Judicial Magistrate No.1, Cheyyar, Tiruvannamalai District. The Trial Court, under judgment dated 26.05.2010, convicted the petitioner for the commission of the offences u/s.326 and 324 IPC and sentenced him to undergo three years rigorous imprisonment and to pay a fine of Rs.5000/- and in default, to undergo 9 months simple imprisonment for the offence u/s.326 IPC and to undergo 1 year rigorous imprisonment and to pay fine of Rs.500/- in default, to undergo two weeks simple imprisonment for the offence u/s.324 IPC. The accused was directed to pay a sum of Rs.4000/- as compensation from out of Rs.5,500/-. There against, petitioner preferred an appeal in C.A.No.03 of 2010 on the file of learned Additional District Judge, Fast Track Court, Arni, Thiruvannamalai District, which came to be dismissed under judgment dated 16.11.2017. Challenging such order, petitioner/accused preferred the present Revision.

2. Crl.M.P.No.17 of 208 has been filed seeking suspension of sentence and Crl.M.P.No.18 of 2018 has been filed seeking exemption from surrendering before the trial Court.

3. 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.

4. Heard learned Additional Public Prosecutor on the submissions made by learned counsel for petitioner.

5. 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.

6. 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.

7. 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 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 Principal District Munsif-cum-Judicial Magistrate No.1, Cheyyar, 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 PRINCIPAL DISTRICT MUNSIF  
CUM-JUDICIAL MAGISTRATE NO.I,  
CHEYYAR

2 THE CHIEF JUDICIAL MAGISTRATE  
THIRUVANNAMALAI [FOR INFORMATION]

3 THE ADDITIONAL DISTRICT JUDGE  
[FAST TRACK COURT] ARNI,  
THIRUVANNAMALAI DISTRICT

4 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

5 THE STATE REP BY ITS,  
THE SUB INSPECTOR OF POLICE,  
DUSI POLICE STATION,  
THIRUVNANAMALAI DISTRICT

2 C.C. to M/S.V.R.APPASWAMEE Advocate on payment of necessary charges SR.NO. 206,207

Order

in  
CRL MP.17/2018

in  
CRL RC.2/2018

Date :04/01/2018

From 7.2.2001 the Registry is issuing certified  
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RD 05/01/2018