

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2018

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No. 2984 of 2018

P.Jayaprakash

..Petitioner

Vs.

Balu

..Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the condition imposed in Crl.MP. No.364 of 2018 in C.A. No.1 of 2018 dated 23.01.2018 on the file of the Villupuram Sessions Division, Villupuram by allowing the present Criminal Original Petition.

For Petitioner : Mr.R.Jayaprakash

For Respondent :

O R D E R

The petitioner, who had been arrayed as accused was imposed punishment of sentence by the learned Judicial Magistrate, Fast Track Court, Kallakurichi in C.C. No. 146 of 2016 dated 29.12.2017. Subsequently, the petitioner has filed a petition Crl.MP. No. 364 of 2018 under Section 389(1) of Cr.PC to suspend the said sentence, which came to be ordered on 23.01.2018 by the learned Principal Sessions Judge, Villupuram by its order dated 23.01.2018. Seeking to modify the same, the present petition had been filed.

2. The right of the appeal is a statutory right and imposing of onerous condition as pre condition for suspension of sentence is improper.

3.This Court had an occasion to deal with the validity of onerous conditions being passed while granting orders of bail or anticipatory bail or release of vehicles in Thiruvasagam Vs. State rep. by the Inspector of Police, B1, North Beach Police Station, Chennai-600 001 in Crl.O.P.No.20483 of 2017 dated 05.10.2017. By relying on various judgments of the Hon'ble Supreme Court as well as this Court, it was held therein that

the Courts are not empowered to impose onerous conditions. Following the rationale laid down in the various orders of the Hon'ble Supreme Court, the onerous condition came to be modified in the said order.

4. In view of the above observations, the order passed in CrI.MP. No.364 of 2018 in C.A. No.1 of 2018 date 23.01.2018 is set aside. Consequently, the sentence passed in the Judgment dated 29.12.2017 in C.C. No. 146 of 2016 by the learned Judicial Magistrate, Fast Track Court, Kallakurichi is suspended on condition the petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties for a like sum each to the satisfaction of the learned Judicial Magistrate, Fast Track Court, Kallakurichi till the disposal of Criminal Appeal.

With the above observations and directions, the Criminal Original Petition is allowed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Sessions Judge,
Villupuram.
2. The Judicial Magistrate (FTC)
Kallakurichi

+1cc to Mr.R.Jayaprakash, Advocate, S.R.No.8770

RRK(16/02/2018)

CrI.O.P.No.2984 of 2018



सत्यमेव जयते

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