

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Fifth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice R. SURESH KUMAR

CRIMINAL MISCELLANEOUS PETITION No.28 of 2018

IN CRL A.4/2018

THIRUMAL,

[PETITIONER]

Vs

STATE REP BY
INSPECTOR OF POLICE,
THIRUTHANI POLICE STATION,
THIRUVALLUR DISTRICT.
(CRIME NO.462/2011).

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.4/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in S.C.No.135/2016 dt.30.11.2017 on the file of the First Additional District Sessions Court, Thiruvallur and enlarge the petitioner on bail pending C.A.No. 4/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.4/2018 on the file of the High Court and upon hearing the arguments of M/S.L.SRILEKA, Advocate for the petitioner and of Mrs.S.Thankira, learned Government Advocate (Crl.side) for the Respondent the court made the following order:-

This petition has been filed to suspend the conviction and sentence of imprisonment imposed by the First Additional District and Sessions Court, Thiruvallur in S.C.No.135 of 2016, by judgement dated 30.11.2017 and enlarge the petitioner on bail pending disposal of the Crl.A.No.4 of 2018.

2. I have heard Mr.L.Prem Kumar, learned counsel for the petitioner/appellant and Mrs.S.Thankira, learned Government Advocate [Crl. Side] appearing for the respondent.

3. The charge laid against the petitioner/appellant was

under Section 304(II) of IPC [4 counts]. Further, after trial, the trial court has convicted the petitioner/appellant under Section 304(A) of IPC [4 counts].

4. Mr.L.Prem Kumar, learned counsel for the petitioner/appellant also would submit that even under Section 304(A), the petitioner/appellant ought not to have been convicted as he has not been guilty of any such charge. He further submits that the trial court has given an interim suspension of the sentence till 05.01.2018 and the same since has already been expired, the present petition may be considered.

5. Per contra, Mrs.S.Thankira, learned Government Advocate (Crl.side) would submit that by relying upon the averments made in the counter affidavit filed on behalf of the prosecution that the Trial Court after having considered the evidence produced by the prosecution has rightly convicted the petitioner/appellant and therefore, the suspension could not be sentenced at this juncture. She would also submit that once the petitioner's conviction is suspended, he may flee to other states and it would be very difficult for the prosecution to secure at a later date. Hence, she opposes the petition.

6. I have considered the submissions made by the learned counsel for the petitioner/appellant and the learned Government Advocate (Crl.side).

7. Considering the facts and circumstances of the case and since it will take some reasonable time to take the main appeal as this appeal is of the year 2018, this court is inclined to pass the following order in this Criminal Miscellaneous Petition:

(i) That the substantive sentence of imprisonment alone imposed against the petitioner is hereby suspended on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties out of which one must be a Government surety and the other one may be from his blood relative for a likesum to the satisfaction of the learned Judicial Magistrate, Thiruthani, within a period of two weeks form the date of receipt of a copy of this order. On such execution of the sureties the petitioner shall be enlarged on bail.

(ii) Also, the petitioner shall appear before the concerned Magistrate Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-
25/01/2018

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 JUDICIAL MAGISTRATE,
THIRUTHANI

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 STATE REP BY
INSPECTOR OF POLICE, THIRUTHANI POLICE
STATION, THIRUVALLUR DISTRICT.

5 THE FIRST ADDITIONAL DISTRICT
AND SESSIONS COURT, THIRUVALLUR

+1 C.C. to M/S.L.SRILEKA Advocate on payment of necessary charges Sr.No.1886

Order
in
CRL MP.28/2018
in
CRL A.4/2018
Date :25/01/2018

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MD: 31/01/2018