

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Seventh day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.V. MURALIDARAN

CRIMINAL MISCELLANEOUS PETITION No.2892 of 2018

IN CRL RC.258/2018

SUDHARSANAM

[PETITIONER]

Vs

JAYARAMAN

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL RC.258/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in CC No.305/2012 on the file of Fast Track Court, Magistrate Level, Tiruvallur by a judgment dated 17.06.2014 and the same was partly allowed and modified the sentence by the Appellate Court in CA No.67/2014 on the file of Principal District and Sessions Judge of Tiruvallur by a judgment dated 31.07.2017, CRL RC.258/2018 [IN CRL.MP.NO.2892 OF 2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL RC.258/2018 on the file of the High Court and upon hearing the arguments of M/S.C.S.SARAVANAN, Advocate for the petitioner, the court made the following order:-

Petitioner was convicted for offences under Section 138 of Negotiable Instruments Act and sentenced to undergo six months S.I and also imposed the compensation amount of Rs.1,50,190/- i/d to undergo two months S.I. and further the petitioner has to deposit the compensation within 30 days by the Fast Track Court, Magisterial Level, Tiruvallur under judgment in C.C.No.305 of 2012 dated 17.06.2014. Against such finding, the petitioner preferred in C.A.No.67 of 2014 on the file of the learned Principal District and Sessions Judge, Tiruvallur. The Appellate Court, under judgment dated 31.07.2017, modified the sentence to undergo three months of S.I and pay compensation amount of Rs.1,50,190/-. Hence, 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 the Fast Track Court, Magisterial Level, Tiruvallur, and on further condition that the petitioner shall deposit 50% of the cheque amount before the Fast Track Court, Magisterial Level, Tiruvallur, within a period of two 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/-
27/02/2018

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 PRINCIPAL DISTRICT AND
SESSIONS JUDGE, TIRUVALLUR.

2 THE FAST TRACK COURT,
MAGISTRATE LEVEL, TIRUVALLUR.

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR [FOR INFORMATION]

+1C.C. to M/S.C.S.SARAVANAN Advocate on payment of necessary
charges SR NO.4022

Order

in
CRL MP.2892/2018

in
CRL RC.258/2018

Date :27/02/2018

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MK:28/02/2018