

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twelfth day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.V. MURALIDARAN

CRIMINAL MISCELLANEOUS PETITION No.3687 of 2018

IN CRL A.150/2018

KESAVAN,

[PETITIONER]

Vs

STATE REP. BY
INSPECTOR OF POLICE,
NEDUNGADU POLICE STATION,
KARAIKAL.
CR.NO.45 OF 2016

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.150/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence conviction passed in Spl.S.C.No.15 of 2016 dated 14.02.2018 on the file of the Sessions Judge at Karaikal and acquit the accused/appellant of the charge leveled against him

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.150/2018 on the file of the High Court and upon hearing the arguments of M/S.M.L.RAMESH Advocate for the petitioner and of MR.D.BHARATHACHAKRAVARTHY PUBLIC PROSECUTOR,PUDUCHERRY on behalf of the Respondent the court made the following order:-

Petitioner was convicted for offence under Section 8 of POSCO Act and sentenced to undergo three years R.I and to pay a fine of Rs.1,000/- in default to undergo one month S.I by the learned Sessions Judge, Karaikkal in Spl.S.C.No.15 of 2016 dated 14.02.2018. Hence, petitioner seeks suspension of sentence.

2. Learned counsel for the 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. He would further submit that the petitioner has already paid a fine amount of Rs.1,000/- before the learned District Judge, Karaikkal.

3. The learned Public Prosecutor (Puducherry) would submit that sentence was already suspended by the trial Court till 14.03.2018.

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 appeal.

5. Therefore, in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the appeal as contended by learned counsel for petitioner and further the appeal 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.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and 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 Sessions Judge, Karaikkal and on further condition that the petitioner shall appear before the said Court once in 15 days i.e., at 10.30 a.m. pending appeal.

-sd/-
12/03/2018

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 SESSIONS JUDGE
KARAIKKAL

2 THE CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 STATE REP. BY
INSPECTOR OF POLICE,
NEDUNGADU POLICE STATION,
KARAIKAL.

+1 C.C. to M/S.M.L.RAMESH Advocate on payment of necessary
charges SR.NO. 4803

Order

in
CRL MP.3687/2018

in
CRL A.150/2018

Date :12/03/2018

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RD 12/03/2018