

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Thirteenth day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.V. MURALIDARAN

CRIMINAL MISCELLANEOUS PETITION No.3750 of 2018

IN CRL A.156/2018

1 SURESH,
2 RAMESH @ LAKSHMANAN,

[PETITIONERS]

Vs

STATE THROUGH
THE INSPECTOR OF POLICE,
VELLAVEDU POLICE STATION,
TIRUVALLUR DISTRICT.
CR.NO.318 OF 2012

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.156/2018 on the file of the High Court, the High Court will be pleased to suspending the sentence of imprisonment imposed by the learned Magalir Neethi Mandram (Fast Track Mahila Court) at Tiruvallur in SC No.102 of 2014 dated 14.02.2018 and enlarge the petitioners on bail pending disposal of C.A.156/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.156/2018 on the file of the High Court and upon hearing the arguments of M/S.R.GANESH KUMAR, Advocate for the petitioner and of MR. T.P. SAVITHA, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

The petitioners herein are arrayed as A1 and A2 were convicted and sentenced by the learned Sessions Judge, Magalir Neethimandram, Tiruvallur in Sessions Case No.102 of 2014, dated 14.02.2018 as follows :

Rank of the Accused	Conviction	Sentence imposed
A1 & A2	294(b) IPC	A1 & A2 to undergo three months R.I.

Rank of the Accused	Conviction	Sentence imposed
A1	307 r/w 34 IPC	A1 to undergo three years R.I. and to pay a fine of Rs.3,000/- in default, to undergo three months S.I.
A2	307 IPC	A2 to undergo three years R.I. and to pay a fine of Rs.3,000/- in default, to undergo three months S.I.

Hence, the petitioners seek suspension of sentence.

2. Learned counsel for the petitioners submit 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 petitioners' 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 the petitioners and the learned Government Advocate (crl.side) for the respondent.

4. Mrs.T.P.Savitha, learned Government Advocate (Crl. Side) would submit that sentence was already suspended by the trial Court till 14.03.2018.

5. The above decisions have been relied upon time and again by this Court towards reaching the conclusion that in moving an appeal against conviction, the accused need not surrender and undergo confinement before seeking the relief of suspension of sentence pending disposal of the Criminal appeal.

6. 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 petitioners 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 petitioners herein are entitled to the relief of grant of suspension of sentence.

7. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are directed to be enlarged on bail on condition that the petitioners shall execute a bond in a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court) Tiruvallur and on further condition that the petitioners shall appear before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-
13/03/2018

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
MAGALIR NEETHIMANDRAM (FAST TRACK MAHILA
COURT) TIRUVALLUR

+1 C.C. to M/S.R.GANESH KUMAR Advocate on payment of
necessary charges Sr.No.4892

Order
in
CRL MP.3750/2018
in
CRL A.156/2018
Date :13/03/2018

From 7.2.2001 the Registry is issuing certified
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MD: 13/03/2018