

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.3758 of 2018

IN CRL RC.314/2018

MRS.SHEILA RAJU

[PETITIONER]

Vs

MRS.MEENA KUMAR

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.314/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence suspend the sentence in C.A.No.37 of 2017, on the file of Honble XV Additional Sessions Court, Chennai dated on 12.09.2017, confirming tyhe judgment in C..CNO.8007 OF 2008, on the file of Honble Metropolitan Magistrate Fast Track Court III, Saidapet, Chennai dated 24.01.2017, pending disposal of Criminal Revision Case No.314/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.314/2018 on the file of the High Court and upon hearing the arguments of M/S.C.PARTHIBAN, 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 six months S.I and to pay the cheque amount of Rs.1,50,000/- as compensation to the complainant by learned III Fast Track Metropolitan Magistrate, Saidapet, Chennai - 600 015 under judgment in C.C.No.8007 of 2008 dated 24.01.2017. The appeal preferred by petitioner in C.A.No.37 of 2017 on the file of the learned XV Additional Sessions Court, Chennai came to be dismissed under judgment dated 12.09.2017. Hence, petitioner seeks suspension of sentence.

2. Learned counsel for 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. The learned counsel appearing for the petitioner submits that the petitioner has already deposited 10% of the cheque amount before the trial Court.

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 prosecution case and there are arguable points involved in the revision as contended by learned counsel for petitioner and further the revision 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 is directed to be enlarged on bail on condition that 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 Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai and on further condition that the petitioner shall deposit 40% of the cheque amount before the learned Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai, within a period of four 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/-
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 METROPOLITAN MAGISTRATE,
FAST TRACK COURT NO.III,
SAIDAPET, CHENNAI.

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI.
[FOR INFORMATION]

3 THE XV ADDITIONAL SESSIONS
COURT, CHENNAI.

C.C. to M/S.C.PARTHIBAN Advocate on payment of necessary
charges

Order

in
CRL MP.3758/2018

in
CRL RC.314/2018

Date :12/03/2018

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MLT-14/03/2018