

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Nineteenth day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.V. MURALIDARAN

CRIMINAL MISCELLANEOUS PETITION No.4160 of 2018

IN CRL A.176/2018

N.MOHAN,

[PETITIONER]

Vs

THE STATE REP. BY ITS,
THE INSPECTOR OF POLICE,
W-4 AL WOMEN POLICE STATION,
KILPAUK, CHENNAI-600 010

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.176/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment passed against the petitioner herein by the Learned Sessions Judge, Mahila court (Magalir needhimandram) Chennai in S.C.No.451 of 2012, dated 06.03.2018 and release him on bail pending disposal of the above appeal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.4160/2018 on the file of the High Court and upon hearing the arguments of M/S.T.SURENDRAN, Advocate for the petitioner and of PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

The learned Government Advocate takes notice on behalf of the respondent.

2. The petitioner was convicted for the offence u/s.417 IPC and undergo one year S.I. and to pay a fine of Rs.1,00,000/-, in default to undergo six months S.I by the learned Sessions Judge, Magalir Neethimandram, Chennai, in S.C.No.451 of 2012 dated 06.03.2018. Hence, petitioner seeks suspension of sentence.

3. Learned counsel 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 deposited the compensation amount of Rs.1,00,000/- on 16.03.2018 and he further states that the trial Court already suspended the sentence till 20.03.2018.

4. The above decisions have been relied upon time and again by this Court towards reaching the conclusion that in moving the 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.

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 the learned counsel for the 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 is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- each (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Mahila Court (Magalir Needhimandram) Chennai and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-

19/03/2018

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
MAHILA COURT[MAGALIR NEEDHIMANDRAM]
CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE STATE REP. BY ITS,
THE INSPECTOR OF POLICE,
W-4 AL WOMEN POLICE STATION,
KILPAUK, CHENNAI.

+1 C.C. to M/S.T.SURENDRAN Advocate on payment of necessary
charges SR.NO. 5270

Order

in
CRL MP.4160/2018

in
CRL A.176/2018

Date :19/03/2018

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RD 19/03/2018