IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirtieth day of May Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice N.SATHISH KUMAR

CRIMINAL MISCELLANEOUS PETITION No.6607 of 2018

IN CRL RC.558/2018

AGAINST

CRL.A.NO.70/2016

[ON THE FILE OF VI ADDITIONAL DISTRICT AND SESSION COURT,CHENNAI]

IN

C.C.NO.9229/2010

[ON THE FILE OF XI METROPOLITAN MAGISTRATE COURT AT CHENNAI]

JANSI RANI [PETITIONER]

Vs

STATE REPRESENTED BY [RESPONDENT]
INSPECTOR OF POLICE,
CRIME BRANCH CID,
CHENNAI.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.558/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence in order dated 28.01.2016 in C.C.No.9229/2010 ordered passed by the Learned XI Metropolitan Magistrate Judge at Saidapet, Chennai as confirmed by the Learned VI Additional District and Session Court by order dated 28.03.2018 in C.A.No.70/2016 pending disposal of the revision petition.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.558/2017 on the file of the High Court and upon hearing the arguments of M/S.V.T.NARENDIRAN Advocate for the petitioner and of MR. M.PRABHAVATHI ADDL.PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

Petitioner was convicted for offence under sections 466, 465, 468, 471, 420 read with 511 IPC and sentenced to undergo 1 year R.I. and a fine of Rs.500/- i/d four weeks S.I. for offence under Section 466 IPC; sentenced to undergo R.I. for 1 year under Section 465 IPC;

sentenced to undergo R.I. for 1 year and to pay a fine of Rs.500/- i/d four weeks S.I. for offence under Section 468 IPC; sentenced to undergo 1 year R.I. and a fine of Rs.500/- i/d four weeks S.I. for offence under Section 471 IPC; sentenced to undergo 1 year R.I. and a fine of Rs.500/- i/d four weeks S.I. for offence under Section 420 IPC; by learned XI Metropolitan Magistrate, Saidapet, Chennai, under judgment in C.C.No.9229 of 2010 dated 28.01.2016. Against which, the petitioner filed Crl.A.No.70 of 2016 on the file of VII Additional District and Session Court at Chennai and the learned Judge has confirmed the conviction and sentence imposed by the XI Metropolitan Magistrate, Saidapet, Chennai, in C.C.No.9229 of 2010 in respect of the offence under Sections 465, 466, 468 and 471 read with 468 of IPC alone and acquitted the accused for the offence under Section 420 read with 511 IPC. 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.

3. Heard learned Additional Public Prosecutor on the submissions made by 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 XI Metropolitan Magistrate, Saidapet, 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 revision.

-sd/-
30/05/2018

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,
NO.XI,SAIDAPET,CHENNAI

2 THE VII ADDITIONAL DISTRICT AND
SESSION COURT AT CHENNAI

3 THE CHIEF METROPOLITAN
MAGISTRATE,EGMORE[FOR INFORMATION]

4 STATE REPRESENTED BY
INSPECTOR OF POLICE,
CRIME BRANCH CID, CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.V.T.NARENDIRAN Advocate on payment of necessary charges SR.NO. 9778

Order

in
CRL MP.6607/2018

in
CRL RC.558/2018

Date :30/05/2018

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RD 01/06/2018