

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Wednesday, the Thirty First day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.V. MURALIDARAN

CRIMINAL MISCELLANEOUS PETITION No.726 of 2018

IN CRL RC.96/2018

S.SARAVANAN @ SARAVANAN  
SAKTHINARAYANAN,

[ PETITIONER ]

Vs

R.MANIVANNAN @ MANIVANNAN RAMAN

[ RESPONDENT ]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal RC No.96 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner in C.C.No.101 of 2013 dated 29.01.2015 passed by the Learned Judicial Magistrate, Fast Track, Magistrate Level, Alandur, and the same was confirmed by the Learned Principal and Sessions Judge, Kancheepuram District at Chenglapet, in Criminal Appeal No.9 of 2015 dated 03.08.2017 and release the petitioner on bail pending disposal of the above Crl.RC.96/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.96 of 2018 on the file of the High Court and upon hearing the arguments of MR.B.HARIKRISHNAN, 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 three months S.I and to compensation of Rs.22,00,000/- ie., the cheque amount to be paid to the complainant by the learned Judicial Magistrate (Magisterial Level) Fast Track court, Alandur, Chennai under judgment in C.C.No.101 of 2013 dated 29.01.2015. The appeal preferred by petitioner in C.A.No.9 of 2015 on the file of learned Principal Sessions Judge, Chengalpattu came to be dismissed under judgment dated 03.08.2017. 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.

3. Heard learned Government Advocate (Crl.side) 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. In view of the above, there shall be an order of interim suspension of sentence till 01.03.2018 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 Judicial Magistrate, Fast Track Court, (Magisterial Level) Alandur, Chennai and on further condition that the petitioner shall deposit 50% of the cheque amount (**i.e. two instalments and the first installment 25% of the amount shall be paid on or before 28.02.2018 and the 2<sup>nd</sup> installment on or before 31.03.2018. If the 1<sup>st</sup> installment has not been paid on or before 28.02.2018, Crl. M.P.No.726 of 2018 to suspend the sentence and Crl.M.P.No.727 of 2018 to exempt the petitioner from surrender in C.A.No.9 of 2015 before the said Magistrate, shall stand automatically dismissed without any further reference of this Court**) 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/-  
31/01/2018

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 JUDICIAL MAGISTRATE,  
FAST TRACK, MAGISTERIAL LEVEL,  
ALANDUR.

2 THE PRINCIPAL AND SESSIONS  
JUDGE, KANCHIPURAM DISTRICT AT CHENGALPET.

+1 C.C. to M/S.B.HARIKRISHNAN Advocate on payment of necessary  
charges-Sr.2140

Order

in  
CRL MP.726/2018

in  
CRL RC.96/2018

Date :31/01/2018

From 7.2.2001 the Registry is issuing certified  
copies of the BAIL/Anti.BAIL Orders in this format  
ths : 01.02.2018