

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Tenth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice C. T. SELVAM

CRIMINAL MISCELLANEOUS PETITION No.73 of 2018

IN CRL RC.18/2018

1 M/S.M.R.EXPORTS REP BY ITS, [PETITIONERS]
MANAGING PARTNERS
SRI.M.RAJENDRAN

2 M.RAJENDRAN,
3 R.RAJESWARI,

Vs

M/S.SARAVANA SPINNING MILLS, [RESPONDENT]
REP BY ITS AUTHORISED PERSON,
S.AUGUSTIN SURESH,

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal RC.18 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence in S.T.C.No.128 of 2012 on the file of the Learned Judicial Magistrate Cum Fast Track of Tiruppur by a judgment dated 19.8.2016 which was confirmed in Crl.Appeal No.96 of 2016 on the file of the Learned II Additional District Sessions Court, Thiruppur and release the petitioner on bail pending disposal of the Crl.RC.18/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.18 of 2018 on the file of the High Court and upon hearing the arguments of M/S.H.MANOJIN, Advocate for the petitioner the court made the following order:-

The petitioners were convicted for an offence under Section 138 of the Negotiable Instruments Act and sentenced A2 & A3 to undergo Six months simple imprisonment and to pay fine of Rs.1,000/- each, in default one month S.I by the learned Judicial Magistrate, Fast Track Court, Tiruppur, under judgment dated 19.08.2016 in S.T.C.No.128 of 2012. The conviction and sentenced imposed by the trial Court was confirmed by the learned II Additional District and Sessions Judge, Tiruppur. Hence, the petitioner seeks suspension of sentence.

2. 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.

3. Heard learned Additional Public Prosecutor on the submissions made by learned counsel for the petitioners.

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 the learned counsel for the 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 petitioners herein is entitled to the relief of grant of suspension of sentence.

6. 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 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 Judicial Magistrate, Fast Track Court, Tiruppur, 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 revision.

-sd/-
10/01/2018

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,
CUM FAST TRACK COURT OF TIRUPPUR.

2 THE II, ADDL. DISTRICT AND
SESSIONS JUDGE, TIRUPPUR.

+1 C.C. to M/S.H.MANOJIN Advocate on payment of necessary
charges -Sr.756

Order

in
CRL MP.73/2018

in
CRL RC.18/2018

Date :10/01/2018

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