

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Ninth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice C.T.SELVAM

CRIMINAL MISCELLANEOUS PETITION No.83 of 2018

IN CRL RC.20/2018

DEVI [PETITIONER]

Vs

THE INSPECTOR OF POLICE,
HUDCO POLICE STATION,
HOSUR, KRISHNAGIRI DISTRICT. [RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal RC. No.20 OF 2018 on the file of the High Court, the High Court will be pleased to Suspend the sentence imposed on the petitioner Vide order dated 12.5.2017, made in C.C.No.187/2013 on the file of the Judicial Magistrate-II, Hosur and confirmed vide judgment dated 06.11.2017 made in C.A.No.30/2017 on the file of the Principal Sessions Court, Krishnagiri.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.20 of 2018 on the file of the High Court and upon hearing the arguments of M/S.T.SATHIYA MOORTHY, Advocate for the petitioner and of MR. V.ARUL, ADDL. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

Petitioner/Sole Accused was convicted for offences under section 323 and 355 IPC and sentenced to 1 year S.I and to pay fine of Rs.500/- in default, one month S.I for offence u/s. 323 IPC and 1 year S.I and to pay fine of Rs.500/- in default, for 1 month S.I for offence u/s.355 IPC by learned Judicial Magistrate II, Hosur, under judgment in C.C.No.187 of 2013 dated 12.05.2017. The appeal preferred by petitioner in C.A.No.30 of 2017 on the file of learned Principal Sessions Court, Krishnagiri, came to be dismissed under judgment dated 05.10.2017. 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 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 learned Judicial Magistrate II, Hosur, 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/-
09/01/2018

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,
NO.II, HOSUR.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI. [FOR INFORMATION]

3 THE PRINCIPAL SESSIONS COURT,
KRISHNAGIRI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
HUDCO POLICE STATION,
HOSUR, KRISHNAGIRI DISTRICT.

+1 C.C. to T.SATHIYA MOORTHY, Advocate on payment of necessary
charges -Sr.480

Order

in
CRL MP.83/2018

in
CRL RC.20/2018

Date :09/01/2018

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