

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.94 of 2018
IN CRL RC.21/2018

MANIVASAGAN,

[PETITIONER]

Vs

STATE REP. BY

[RESPONDENT]

SUB-INSPECTOR OF POLICE,
CHIDAMBARAM TALUK POLICE STATION,
CHIDAMBARAM, CUDDALORE DISTRICT,
CR.NO.287 OF 2012.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CrL.RC.No.21/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence passed by the learned II Addl. District and Session Judge, Chidambaram in C.A.No.29 of 2017 judgment dated 23.11.2017 and enlarge the petitioner on bail, confirming the Judgment passed in C.C.No.07 of 2013 on the file Judicial Magistrate No.2, Chidambaram pending disposal alone Criminal Revision.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CrL.RC. No.21/2018 on the file of the High Court and upon hearing the arguments of M/S.OM SAI RAM, Advocate for the petitioner and of MR.V. ARUL, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

Petitioner / Sole Accused faced trial in C.C.No.07/2013 on the file of learned Judicial Magistrate No.II, Chidambaram. Trial Court, under judgment dated 07.03.2017, convicted the petitioner for the commission of the offences u/s.324 IPC and sentenced him to undergo three months rigorous imprisonment and to pay a fine of Rs.1,000/- and in default, One month simple imprisonment for the offence u/s.324 IPC. There against, petitioner preferred an appeal in C.A.No.29/2017 on the file of learned II Additional District and Sessions Judge, Chidambaram, which came to be dismissed under judgment dated 23.11.2017. This miscellaneous petition has been filed seeking 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, Chidambaram, 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 II ADDITIONAL DISTRICT
AND SESSIONS JUDGE, CHIDAMBARAM

2 THE JUDICIAL MAGISTRATE,
NO.2, CHIDAMBARAM

3 THE JUDICIAL MAGISTRATE,
CUDDALORE (FOR INFORMATION)

4 STATE REP. BY
SUB-INSPECTOR OF POLICE, CHIDAMBARAM TALUK
POLICE STATION, CHIDAMBARAM, CUDDALORE
DISTRICT, CR.NO.287 OF 2012.

+1 C.C. to M/S.OM SAI RAM Advocate on payment of necessary
charges Sr.No.407

Order
in
CRL MP.94/2018
in
CRL RC.21/2018

Date :09/01/2018

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MD: 12/01/2018