

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Sixth day of September Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL MISCELLANEOUS PETITION No.12795 of 2018

IN CRL RC.1098/2018

K.REJENDRAN @ KUTTY

[PETITIONER / APPELLANT]

Vs

M.GOVINDARAJALU

[RESPONDENT / COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.R.C.No.1098 of 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence of the order of conviction dated 05.07.2018 passed in C.A.No.4 of 2018 by the XVII Additional City Civil Court at Chennai and confirming the order of conviction dated 07.12.2017 passed in C.C.No.3767 of 2013 by the learned Metropolitan Magistrate Fast Track Court-I, Egmore at Allikulam Chennai - 3 pending disposal of the above main Criminal Revision Petition No.1098 of 2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.R.C.No.1098 of 2018 on the file of the High Court and upon hearing the arguments of M/S.A.BALASINGH RAMANUJAM, Advocate for the petitioner the court made the following order:-

Petitioner was convicted for an offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo 3 months S.I. and to pay a compensation of Rs.2,00,000/-to the complainant under Section 357(3) of Cr.P.C. in default to undergo 1 months S.I., by the learned Metropolitan Magistrate, Fast Track Court-I, Egmore at Allikulam, Chennai under judgment dated 07.12.2017 in C.C.No.3767 of 2013. The conviction and sentence imposed by the trial Court was confirmed by learned XVII Additional Judge, City Civil Court, Chennai, under judgment in C.A.No.04 of 2018 dated 05.07.2018. Hence, the petitioner seeks suspension of sentence.

2.Learned counsel for petitioner would submit 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.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.

4.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, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

5.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 deposit a sum of Rs.1,00,000/- (Rupees One Lakh Only) within a period of four weeks from the date of receipt of a copy of this order to the credit of C.C.No.3767 of 2013 on the file of the learned Metropolitan Magistrate, Fast Track Court-I, Egmore at Allikulam, Chennai failing which, the suspension of substantive sentence of imprisonment alone granted today, shall stand automatically vacated, without any further reference to this Court and on further condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties each for a like sum to the satisfaction of learned Metropolitan Magistrate, Fast Track Court-I, Egmore at Allikulam, 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.

6.Notice.

-sd/-

26/09/2018

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 XVII ADDITIONAL CITY CIVIL
COURT, CHENNAI

2 THE METROPOLITAN MAGISTRATE,
FAST TRACK COURT - I,
EGMORE AT ALLIKULAM, CHENNAI -3

3 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE CHENNAI [FOR INFORMATION]

C.C. to M/S.A.BALASINGH RAMANUJAM Advocate on payment of
necessary charges

Order

in
CRL MP.12795/2018

in
CRL RC.1098/2018

Date :26/09/2018

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

cm 01/10/2018

सत्यमेव जयते

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