

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Nineteenth day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL MISCELLANEOUS PETITION No.13523 of 2018

IN CRL RC.1161/2018

S.SURESH

[PETITIONER]

Vs

THE INSPECTOR OF POLICE,
SPE, CBI, EOW,
CHENNAI.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1161/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment to undergo 7 years RI as per dt 5.11.2008 passed by the Learned Additional Chief Metropolitan Magistrate EO II, Egmore, Chennai 8 against the petitioner/revisioner pettiitioner/1st accused.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.1161/2018 on the file of the High Court and upon hearing the arguments of M/S.SATHYAMURTHY V.K. Advocate for the petitioner and of MR.K.SRINIVASAN SPECIAL PUBLIC PROSECUTOR FOR CBI CASES, on behalf of the Respondent the court made the following order:-

Petitioner was convicted for offences u/s. 120-B, r/w 420, 465, 468, 471 of IPC and 132 and 135 of Customs Act, 1962. The Trial Judge found guilty of the Petitioner and imposed maximum period of seven years by judgment dated 05.11.2008 in E.O.C.C.No.435 of 2004. The petitioner had paid the fine amount before the Trial Court and sought suspension of sentence which was allowed. Thereafter the petitioner preferred an appeal against the said order before the Hon'ble Principal Sessions Judge, Chennai, in Crl.A. No. 308 of 2008 wherein the learned Judge by order dated 28.04.2018 confirmed the judgment and sentence dated 05.11.2008 passed by the Trial Court in E.O.C.C.No.435 of 2004 sentencing the petitioner to undergo (i) Rigorous Imprisonment for 3 years for offence under Section 120-B r/w. 420, 467, 468, 471 IPC, 132 and 135 of the Customs Act, 1962 and also imposed a fine of Rs.1000/-, in default of payment of fine 2 months R.I. was imposed; (ii) R.I. for 7 years for offence u/s. 467 IPC and also imposed a fine of Rs.1000/- and in default of payment of fine 2 months R.I. was imposed; (iii) R.I. for 7 years for offence u/s. 467 r/w 471 IPC and also imposed a fine of Rs.1000/- and in

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default of payment of fine 2 months R.I. was imposed; (iv) R.I. for 7 years for offence u/s.420 of IPC and also imposed a fine of Rs.1000/- and in default payment of fine 2 months R.I. was imposed; (v) R.I. for 1 years for Offence u/s. 132 of the Customs Act and also imposed a fine of Rs.1000/- and in default of payment of fine 2 months R.I. was imposed; (vi) R.I. for 2 years for offence u/s. 135 of the Customs Act and also imposed a fine of Rs.1000/- and in default of payment of fine 2 months R.I. was imposed; and the trial Judge in E.O.C.C.No. 435 of 2004 had ordered and above sentences to be run concurrently. Hence, petitioner seeks suspension of sentence.

2.Learned counsel submits that there are several infirmities and inconsistencies found in the prosecution case and there are contradictions in the material particulars between the evidence of the prosecution witnesses.

3. Heard the learned Special Public Prosecutor (CBI Cases) and the learned counsel for the petitioner.

4. Considering the facts and circumstances of the case and in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the appeal, as contended by learned counsel for petitioner and further the appeal 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.

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 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 the learned Additional Chief Metropolitan Magistrate: EO-II, Egmore, Chennai-8, 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 appeal.

सत्यमेव जयते

-sd/-

19/12/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE,
EO-II, EGMORE,
CHENNAI-8,

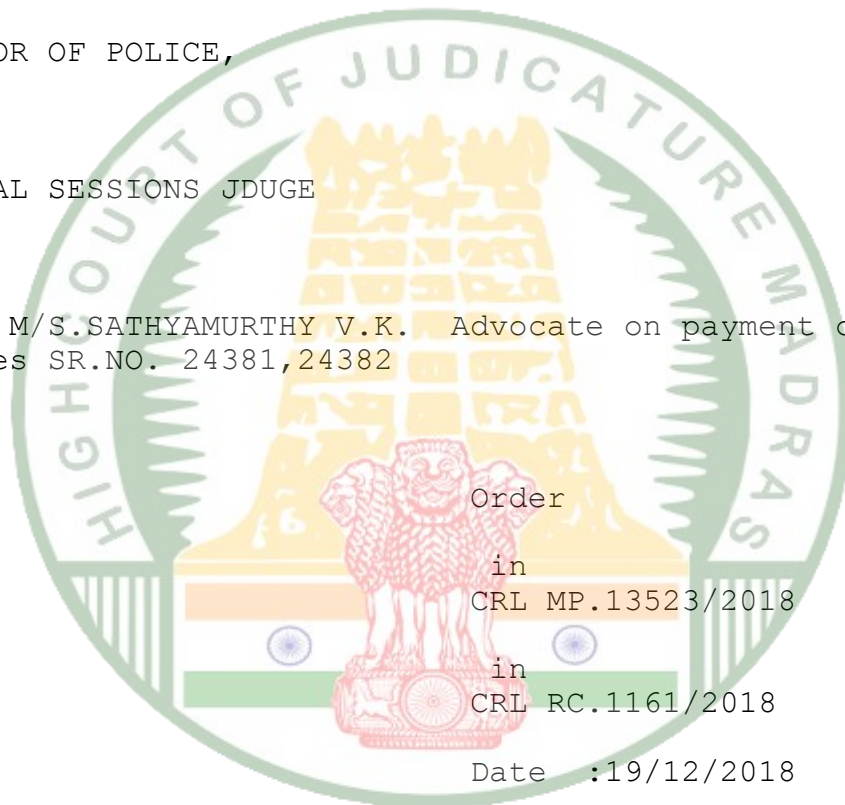
2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SPE, CBI, EOW,
CHENNAI.

5 THE PRINCIPAL SESSIONS JUDGE
CHENNAI

+6 C.C. to M/S. SATHYAMURTHY V.K. Advocate on payment of
necessary charges SR.NO. 24381, 24382



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