

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Seventh day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION Nos.16645 & 16647 of 2018

IN CRL.R.C.NO.1424 of 2018

1 SREE DHARASAN ENGINEERING [PETITIONERS]
REPRESENTED BY ITS
PARTNER V.SUDHARSAN,

2 SUDHARSAN

Vs

1 THE STATE [RESPONDENTS]
REP. BY THE PUBLIC PROSECUTOR,
III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
COIMBATORE.

2 P.PURUSHOTHAMAN

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased

(i) To Suspend the Sentence imposed in the Judgment in C.A.No.181/2016 dated 16.04.2018 passed by the III Additional District and Sessions Court, Chennai confirming the Judgment in C.C.No.3/2012 dated 24.11.2016. passed by the Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore, pending disposal of the above Crl.R.C.No.1424 of 2018. (Crl.M.P.No.16645/2018)

(ii) To exempt the petitioners from surrendering in pursuant to the Judgment in C.A.No.181/2016 dated 16.04.2018 passed by the III Additional District and Sessions Court, Chennai confirming the Judgment in C.C.No.3/2012 dated 24.11.2016. passed by the Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore, pending disposal of the above Crl.R.C.No.1424 of 2018. (Crl.M.P.No.16647/2018)

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.S.B.VISWANATHAN, Advocate for the petitioners, and of M/S.HARI HARA SOMA SHANKAR, Government Advocate (Crl.Side) on behalf of the Respondents, the court made the following order:-

Petitioners were convicted for the offence under Section 138 and 141 of the Negotiable Instruments Act and the first petitioner was imposed to pay a fine of Rs.10,000/- and the second petitioner was sentenced to undergo one year Simple Imprisonment. The fine amount imposed on the first petitioner was liable to be paid by the second petitioner and in default, the second petitioner was to undergo two months Simple Imprisonment, by learned Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore in C.C.No.3 of 2012 by judgment dated 24.11.2016. The appeal preferred by petitioner in C.A.No.181 of 2016 on the file of learned III Additional District and Sessions Judge, Coimbatore, came to be dismissed under judgment 16.04.2018. Hence, petitioners seek suspension of sentence and exemption from surrendering before the Trial Court.

2. Learned counsel for petitioners 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. Learned counsel further submits that the petitioners have paid the fine amount.

3. Heard learned Government Advocate (Crl.Side) on the submissions made by learned counsel for petitioners.

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 revision, as contended by learned counsel for petitioners, 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 are entitled to the relief of grant of suspension of sentence.

5. 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/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore 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. In view of the suspension of sentence, the petitioners are exempted from surrendering before the above said Court.

6. CrI.M.P.Nos.16645 and 16647 of 2018 are ordered accordingly.

-sd/-
07/12/2018

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 III ADDITIONAL DISTRICT AND
SESSIONS JUDGE, COIMBATORE.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT AT MAGISTERIAL LEVEL-II,
COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE PUBLIC PROSECUTOR,
III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
COIMBATORE.

+1 C.C. to M/S.S.B.VISWANATHAN Advocate on payment of necessary
charges SR.NO.23498

Order

in
CRL MP.16645 & 16647/2018
in
CRL.R.C.NO.1424/2018

Date :07/12/2018

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