



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Fourteenth day of August Two Thousand Eighteen

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PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL MP(MD) Nos.3116 & 3127 of 2018

IN

CRL RC(MD) No.205 of 2018

SIVAKAMI PILLAI

... PETITIONER/REVISION PETITIONER
IN BOTH THE PETITIONS

Vs

THE STATE REPRESENTED BY,
THE SUB INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH POLICE STATION,
THOOTHUKUDI.

(CRIME NO.6/1997)

... RESPONDENT/RESPONDENT
IN BOTH THE PETITIONS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to pass an order to suspend the sentence imposed on the petitioner/Accused by the Learned 1st Additional Sessions Judge, Thoothukudi in C.A.No.30/2016 dated 23/02/2018 and release the petitioner on bail pending disposal of the above Crl.R.C.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of MR.R.RAMACHANDRAN, Advocate for the petitioner in both the petitions and of MR.A.ROBINSON, Government Advocate (Crl.Side) in both the petitions on behalf of the Respondents, the court made the following order:-

The petitioner is the sole accused in C.C.No.57 of 1999 on the file of the Judicial Magistrate Court No.I, Thoothukudi. By judgment dated 15.07.2016, he has been convicted under Section 409 IPC and sentenced to undergo simple imprisonment for three years and to pay a fine of Rs.10,000/-, in default, to undergo simple imprisonment for three months. Challenging the same, he has filed an appeal in C.A No.30 of 2016 on the file of the learned First Additional Sessions Judge, Thoothukudi. The first appellate Court, while confirming the judgment of conviction under Section 409 IPC, modified the sentence of three years simple imprisonment into one and half years of simple imprisonment and also modified the fine amount of Rs.10,000/- into Rs.7,500/-, by judgment dated 23.02.2018. Challenging the same, the petitioner is before this Court with Crl.R.C.(MD) No.205 of 2018. Pending disposal of the same, the petitioner has come forward with these petitions seeking exemption to the petitioner from surrendering before the trial Court and suspension of substantive sentence of imprisonment.



2.I have heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and also perused the records carefully.

3.The petitioner has preferred the criminal revision against the concurrent finding of the corruption, holding the petitioner guilty under Section 409 I.P.C. The Courts below have found that the petitioner has misappropriated a sum of Rs.7,500/-, while he was holding the post of Senior Inspector in the Co-operative Society. However, the sentence of three years simple imprisonment and to pay a fine of Rs.10,000/-, imposed by the trial Court, has been modified by the first Appellate Court and the petitioner was sentenced to undergo 1½ year simple imprisonment and to pay a fine of Rs.7,500/- and all throughout the petitioner has been enjoying the suspension of sentence.

4.The learned counsel for the petitioner would submit that the petitioner is 78 years old and he may be exempted from surrendering and sought for suspension of sentence pending disposal of the revision petition. It is also submitted that after the First Information Report the petitioner has remitted a sum of Rs.7,500/-, which was alleged to have been misappropriated by him.

5.Considering the subsequent event of remittance of the amount which will have mitigating effect in the sentence and also considering the age of the petitioner, this Court is inclined to grant exemption to the petitioner from surrendering before the trial Court and also inclined to suspend the sentence till the disposal of the revision.

6.Accordingly, these petitions are allowed and the substantive sentence of imprisonment imposed on the petitioner is suspended and the petitioner is directed to be enlarged on bail, on the following conditions:

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 Judicial Magistrate No.I, Thoothukudi and on further condition that the petitioner shall report before the trial Court on the first working day of every English calendar month at 10.30 a.m. until further orders.

7.The petitioner shall surrender before the Trial Court for getting bail, within a period of two weeks from the date of receipt of a copy of this order.

sd/-

14/08/2018

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1 THE I ADDITIONAL SESSIONS JUDGE, THOOTHUKUDI

2 THE JUDICIAL MAGISTRATE NO.I,
THOOTHUKUDI

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI

4 THE SUB INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH POLICE STATION,
THOOTHUKUDI.

5 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to MR.R.RAMACHANDRAN Advocate SR.No.15537

ORDER IN
CRL MP(MD) No.3116 & 3127 of 2018
IN CRL RC(MD) No.205 of 2018
Date :14/08/2018

PK/VR/SAR-1/23.08.2018 : 3P/7C