



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.(MD) No.604 of 2018

Rajagopal

... Petitioner/3rd Appellant/
3rd Accused

vs.

The State of Tamil Nadu
represented by
The Sub Inspector of Police,
Mukkudal Police Station,
Tirunelveli District.
(Crime No.176 of 2011)

... Respondent/Respondent/Complainant

PRAYER:- Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order dated 05.10.2018 made in Cr.M.P.No.5397 of 2018 in C.A.No.107 of 2018 on the file of the learned Court of Sessions, Tirunelveli Division insofar as the petitioner is concerned and consequently to release the petitioner on bail pending disposal of C.A.No.107 of 2018 on the file of the learned Court of Sessions, Tirunelveli Division.

For Petitioner : Mr.M.S.Jeyakarthik

For Respondent : Mr.A.P.G.OHM.Chairma Prabhu
Government Advocate (Crl.Side)

ORDER

This criminal revision case has been filed to set aside the order dated 05.10.2018 passed in Cr.M.P.No.5397 of 2018 in C.A.No.107 of 2018 by the learned Sessions Judge, Tirunelveli Division.

2.The revision petitioner was arrayed as A3 in C.C.No.44 of 2012 before the trial Court. The trial Court has convicted him along with other accused and all the accused including the revision petitioner have filed an appeal in C.A.No.107 of 2018 before the learned Sessions Judge, Tirunelveli Division.

3.During the pendency of the appeal, the revision petitioner and other accused have moved a petition for suspension of sentence in Cr.M.P.No.5397 of 2018 in C.A.No.107 of 2018 on the file of the learned Sessions Judge, Tirunelveli Division.

<https://hcservices.ecourts.gov.in/hcservices/>

4.After hearing the arguments, the learned Sessions Judge,



Tirunelveli has granted suspension of sentence to two other accused, whereas, the petition for suspension of sentence was dismissed against this revision petitioner and denied to grant an order of suspension, against which, the revision petitioner has filed the present revision case.

5.The learned counsel for the petitioner would submit that totally there are three accused in Cr.No.176 of 2011. The learned Magistrate, convicted all the three accused including the revision petitioner, against which all the three accused have filed the appeal and moved the petition for suspension of sentence during the pendency of the appeal, whereas, the learned Sessions Judge, granted an order of suspension of sentence for two other accused except the revision petitioner. There is no valid reason to dismiss the petition for suspension of sentence filed by the petitioner herein. Therefore, as stated above, the order passed by the learned Sessions Judge, Tirunelveli warrant interference.

6.The learned Government Advocate (Crl.Side) for the respondent would submit that this revision petitioner has got bad antecedents and also 8 more previous cases of similar offence. If the sentence is suspended and the revision petitioner released, there is a possibility of absconding and protracting the appeal. Therefore, the order passed by the learned Sessions Judge, Tirunelveli does not warrant interference.

7.Heard the learned counsel on either side.

8.It is an admitted fact that the revision petitioner was arrayed as A3 in Cr.No.176 of 2011. He was convicted by the learned learned Magistrate, Cheranmahadevi. Though he has filed the appeal before the learned Sessions Judge, Tirunelveli, the revision petitioner has got the right of appeal. During the pendency of the appeal, he has filed the petition in Cr.M.P.No.5397 of 2018 in C.A.No.107 of 2018.

9.Though the learned Government Advocate (Crl.Side) would submit that he has got bad antecedents, he is not able to say that previously the petitioner absconded in any other case and because of that any of the case was protracted. Mere pending of other criminal cases against the petitioner is not sole ground to reject the petition for suspension of sentence. In this case, the respondent has not shown any material to show that he is in habit of absconding due to that cases are pending and huge number of appeals are pending due to that the Courts are not able to proceed the case further.

10.Under these circumstances, the order passed by the lower Court warrants interference. Therefore, this Court is inclined to set aside the order passed by the learned Sessions Judge, Tirunelveli dated 05.10.2018 in Cr.M.P.No.5397 of 2018 in C.A.No.107 of 2018 and grant an order of suspension of sentence, provided with



two sureties subject to the satisfaction of the learned Sessions Judge, Tirunelveli Division, pending disposal of the revision case. The revision petitioner is directed to appear before the learned Sessions Judge, Tirunelveli Division as and when required.

11. This criminal revision case is allowed with the above direction.

Sd/
Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar(CS-I)

To

1. The Principal Sessions Judge,
Tirunelveli Division.
2. The District Munsif cum Judicial Magistrate,
Cheranmahadevi.
3. The Sub Inspector of Police,
Mukkudal Police Station,
Tirunelveli District.
4. The Superintendent,
Central Prison, Palayamkottai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1cc to Mr.M.S.JEYAKARTHIK, Advocate, SR.No.94712

CrI.R.C. (MD) No.604 of 2018
09.11.2018

MM

KK/RP/SAR-1/15.11.2018/3P-9C