

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eighth day of May Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice N. ANAND VENKATESH

CRIMINAL MISCELLANEOUS PETITION No.6439 of 2019

IN CRL RC.413/2019

PALANI

[PETITIONER]

Vs

THE DRUGS INSPECTOR,
PALLIPATTU RANGE
I/C, OFFICE OF THE ASST.
DIRECTOR OF DRUGS CONTROL,
TIRUVALLUR ZONE, NO.201,
J.N.ROAD, I FLOOR, VISHNU COMPLEX,
TIRUVALLUR-602 001.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.413/2019 on the file of the High Court, the High Court will be pleased to suspend the execution of the sentence passed in CC No.47 of 2017 by the Learned by the Learned Chief Judicial Magistrate, Tiruvallur, dated 23.11.2018 which was partly confirmed against the petitioner in C.A.No.210 of 2018 dated 16.04.2019 on the file of the Learned I Additional District and Sessions Judge, Tiruvallur.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.413/2019 on the file of the High Court and upon hearing the arguments of M/S.C.P.PALANICHAMY Advocate for the petitioner and of MRS.M.PRABHAVATHI ADDL.PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

This criminal revision petition has been filed against the judgment of the learned I Additional District and Sessions Judge, Tiruvallur, made in C.A.No.210 of 2018, dated 16.04.2019, partly confirming the judgment of the learned Chief Judicial Magistrate, Tiruvallur, dated 23.11.2018, in C.C.No.47 of 2017, convicting the petitioner under Section 18A read with Section 28 of the Drugs and Cosmetics Act, 1940, and sentencing him to undergo S.I. for 6 months and to pay a fine of Rs.20,000/- in default S.I. for 1 month. Pending revision, the petitioner has filed the above miscellaneous petition seeking suspension of substantive sentence of imprisonment.

2.The learned counsel for the petitioner submitted that the Court below after acquitting the petitioner from the charges under Section 18C read with Section 27(ii)(b) of the Drugs and Cosmetics

Act, 1940, ought to have acquitted the petitioner from the charges under Section 18A of the Drugs and Cosmetics Act also. The learned counsel further submitted that the show cause notice itself was sent in this case after nearly 3½ months, after inspection and there was no explanation for the delay. The learned counsel further submitted that the petitioner was running a licensed medical shop adjacent to the room where the alleged seizure took place. This fact was admitted by P.W.6. Therefore, when the petitioner is having a valid licence to sell the medicines, the question of seizing them in another room alleging that the medicines were stocked for sale by the petitioner is not correct, more particularly in the absence of any material to show that the premises belongs to or was in the possession of the petitioner. The learned counsel further submitted that the petitioner has already paid the fine amount of Rs.20,000/- at the time of filing the Appeal.

3.The learned Additional Public Prosecutor submitted that the Court below has appreciated the entire evidence and has given elaborate reasons for convicting and sentencing the petitioner.

4.This Court carefully considered the submissions made on either side.

5.Considering the facts and circumstances of the case and in view of the fact that there are arguable points which require a consideration in the revision and the revision cannot be taken up for hearing in the near future, this Court is inclined to suspend the sentence imposed by the Court below.

6.The sentence imposed by the Court below, vide Judgment made in C.A.No.210 of 2018, dated 16.04.2019, on the file of the learned I Additional District and Sessions Judge, Tiruvallur, confirming the judgment of the learned Chief Judicial Magistrate, Tiruvallur, dated 23.11.2018 in C.C.No.47 of 2017, is hereby 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 Chief Judicial Magistrate, Tiruvallur, and shall appear before the said learned Chief Judicial Magistrate every week on Monday at 10.30 a.m. until further orders.

-sd/-

08/05/2019

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 CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR

2 THE 1 ADDITIONAL DISTRICT AND
SESSIONS JUDGE, TIRUVALLUR

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE DRUGS INSPECTOR,
PALLIPATTU RANGE
I/C, OFFICE OF THE ASST.
DIRECTOR OF DRUGS CONTROL,
TIRUVALLUR ZONE, NO.201,
J.N.ROAD, I FLOOR, VISHNU COMPLEX,
TIRUVALLUR-602 001.

+1 C.C. to M/S.C.P.PALANICHAMY Advocate on payment of necessary
charges SR.NO. 9610

Order

in
CRL MP.6439/2019

in
CRL RC.413/2019

Date :08/05/2019

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