

Crl.M.P. Nos.6697 & 6698 of 2019
in
Crl.R.C.No.459 of 2019

A.D.JAGADISH CHANDIRA, J.

The Revision Petitioner had been tried by the learned Judicial Magistrate No.III, Coimbatore in C.C. No.1565 of 2005 for the offences under Sections 406 and 420 of IPC. The learned trial Judge by order dated 21.02.2018 had found the petitioner guilty for offences under Sections 406 and 420 of IPC and had sentenced him to under go three years Rigorous Imprisonment for the above offences and also directed him to pay a compensation of Rs.6,54,000/- to the victims/witnesses who have given evidence before the trial Court. Against the judgment of conviction, sentence and imposition of compensation passed by the learned Judicial Magistrate No.III, Coimbatore in C.C. No.1565 of 2005, the petitioner had filed C.A. No.99 of 208 before the learned 1st Additional District and Sessions Judge, Coimbatore. The appellate Court by order dated 27.02.2019, partly allowed the appeal and acquitted the petitioner for offence under Section 420 of IPC and convicted the petitioner under Section 406 of IPC and modified the sentence to one year Simple Imprisonment and also set aside the order of awarding compensation to the victims/witnesses. Against the order passed by the appellate Court, the present revision has been filed.

2. Crl.M.P.Nos.6697 & 6698 of 2019 have been filed seeking suspension of sentence imposed on the petitioner and exemption from surrendering before the trial Court.

3. The learned counsel for the petitioner/accused would submit that both Courts below on wrong appreciation of facts and law has convicted the petitioner. He would further submit that the petitioner has got valid grounds on revision and that she has got a fair chance of succeeding the revision. He would further submit that the appellate Court has imposed a sentence of one year Simple Imprisonment and he would also submit that due to her illness, the petitioner was unable to appear before the Court on the day of judgment and thereby, the petitioner would seek exemption from surrendering and also seek for suspension of sentence.

4. The learned Government Advocate (Crl.Side) would submit that both the Courts below have rightly convicted the petitioner and would object for suspension of sentence.

5. In respect of the contention raised by the learned counsel for the petitioner, regarding exemption from surrendering before the Trial Court, it is relevant to note that this Court had in several other cases, following the settled principles of law laid down by the Honourable Supreme Court in its decision reported in **2000 10 SCC 346 : 2000 SCC Crl 1380 (Bihari Prasad Singh Vs. State of Bihar and another)** and also the decision reported in **1979 KLT 857 (Ibrahim Vs. State of Kerala)**, held that for seeking suspension of sentence, the accused need not be under confinement.

6. Considering the facts and circumstances of the case and the

decisions of Hon'ble Supreme Court cited supra that there are arguable points involved in the revision as contended by learned counsel for petitioner, 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 petitioner herein is entitled to the relief of suspension of sentence.

7. Accordingly, the substantive sentence of imprisonment alone is suspended and as the petitioner is directed to be enlarged on bail on condition that the the petitioner shall report before the trial Court on the first working day of every month at 10.30 a.m. until further orders and the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate No.III, Coimbatore. The surrender of the petitioner before the trial Court is exempted. The petitioner shall appear before the trial Court on the first working day of every English calendar month at 10.30 a.m. until further orders.

सत्यमेव जयते

16.05.2019

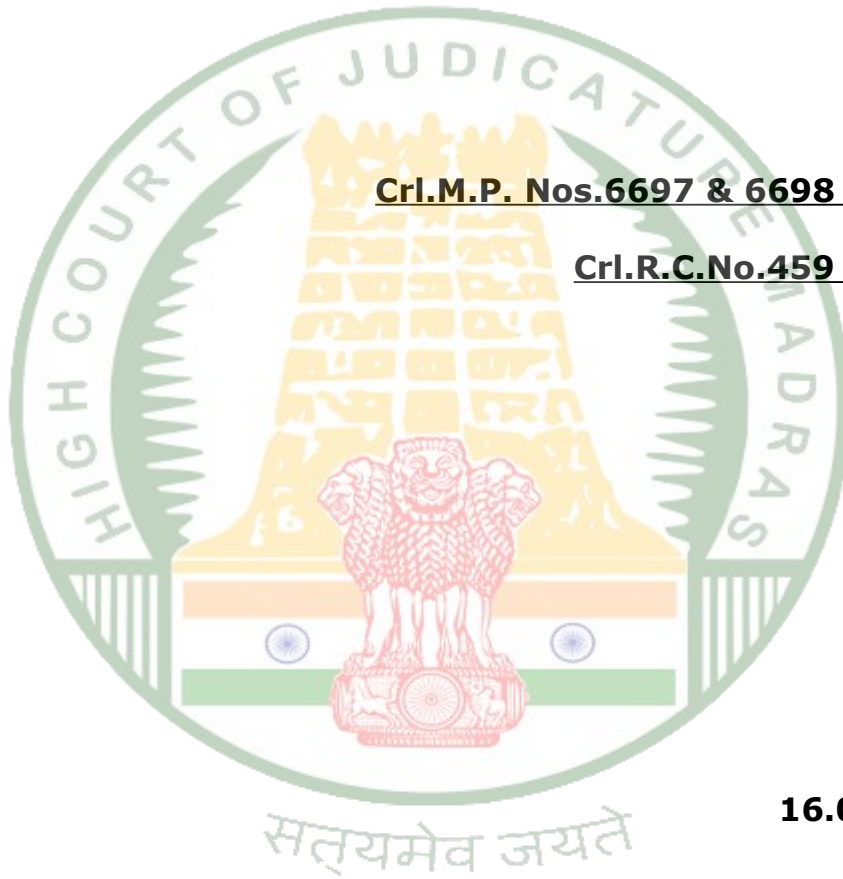
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