

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Sixth day of September Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.7580 of 2019

IN CRL.R.C.NO.557 of 2019

SUJI @ SUJATHA

[PETITIONER]

Vs

1 THE EXECUTIVE MAGISTRATE CUM
DEPUTY COMMISSIONER,
MADHAVARAM,
CHENNAI.

[RESPONDENT]

2 STATE REP.BY
THE INSPECTOR OF POLICE (LAW AND ORDER),
M-5 ENNORE POLICE STATION,
CHENNAI.

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

(i) To suspend the conviction and sentence order dated 04.06.2019 passed u/s.122(1)(b) of Cr.P.C. in M.P.No.07 of 2019 in RC.No.205/Sec.Pro/DCP MVM/2018 in M-5, Ennore P.S. S1.No.79/2018 u/s.110 of Cr.P.C. on the file of the Executive Magistrate Cum Deputy Commissioner, Madhavaram, Chennai) to undergo Simple Imprisonment of 150 Days Pending disposal of this Petition Crl.R.C.No.557 of 2019.

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.E.ASHOK KUMAR, Advocate for the petitioner, and of MR. M.MOHAMED RIYAZ, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

The petition has been filed by the petitioner/appellant, to suspend the conviction and sentence of imprisonment imposed in the judgment dated 04.06.2019 made in M.P.No.07 of 2019 in RC No.205/Sec.Pro/DCP MVM/2018 in M-5, Ennore P.S. S1.No.79/2018 u/s.110 of Cr.P.C., on the file of the Executive Magistrate Cum Deputy Commissioner, Madhavaram, Chennai, pending disposal of the criminal

2.The petitioner/appellant was found guilty of the offences under Section 122(1)(b) of the Code of the Criminal Procedure and she has been convicted and sentenced as under:

S.No.	Conviction u/s.	Sentence
1.	122(1)(b) of Cr.P.C.,	150 days Simple Imprisonment.

Aggrieved against the same, the petitioner/appellant has preferred this criminal revision.

3. The case of the prosecution is that the petitioner had entered in to a bond under Section 110 cr.P.C., to keep good behaviour, however within 210 days of entering in to the bond, the petitioner had involved in a case registered by M-5, Ennore Police Station, in Crime No.230 of 2019, for the offence under Sections 8(c) r/w 20(b), (ii), (B) of NDPS Act 1985 and thereby, the proceedings were initiated against the petitioner. The Executive Magistrate Cum Deputy Commissioner of Police, Madhavaram, Chennai, found the petitioner guilty and passed orders under Section 122 (1)(b) Cr.P.C., convicting the petitioner/accused to undergo imprisonment for a period of 155 days. Against the said order, the present Criminal Revision has been filed.

5 The learned counsel for the petitioner/accused would submit that the Executive Magistrate Cum Deputy Commissioner of Police, Madhavaram, Chennai, has not followed due procedure contemplated in law and thereby, the order passed by the learned Executive Magistrate is liable to be set aside. He would submit that sufficient opportunity was not given to the petitioner to properly defend the case and would submit that there are arguable points available in the revision and that the petitioner/accused has got a fair chance of succeeding the revision and would pray that the substantive sentence imposed against the petitioner/accused may be suspended.

6 The learned Additional Public Prosecutor has raised objections for suspending the sentence.

7. Taking into consideration the submissions made by the learned counsels, the substantive sentences of imprisonment alone is suspended. Accordingly, the sentences of imprisonment imposed on the petitioner/accused by the Executive Magistrate Cum Deputy Commissioner, Madhavaram, Chennai, alone is hereby suspended till the disposal of the revision and the petitioner/accused is ordered to be enlarged on bail on his executing a bond for Rs.5,000/- [Rupees Five thousand only] with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate Court, Thiruvottiyur, on the condition that the petitioner/accused shall

report before the Executive Magistrate Cum Deputy Commissioner, Madhavaram, Chennai, every Monday at 10.30 a.m., until further orders, pending revision.

-sd/-
06/09/2019

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 JUDICIAL MAGISTRATE COURT,
THIRUVOTTIYUR, CHENNAI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

3 THE EXECUTIVE MAGISTRATE CUM
DEPUTY COMMISSIONER,
MADHAVARAM, CHENNAI.

4 THE INSPECTOR OF POLICE (LAW AND ORDER),
M-5 ENNORE POLICE STATION,
CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON-II, PUZHAL.

+1 C.C. to M/S.E.ASHOK KUMAR Advocate on payment of necessary charges SR.NO.18670

Order

in

CRL MP.7580/2019

in

CRL.R.C.NO.557/2019

Date :06/09/2019

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