

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twentieth day of September Two Thousand Nineteen

PRESENT

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

Crl.MP.Nos.12591, 12594, 12598, 12597, 12602, 12606, 12609, 12611,
12614, 12618, 12622, 12626 & 12630 of 2019

and

Crl.M.P.Nos.12593, 12596, 12603, 12600, 12605, 12608, 12612, 12615,
12617, 12620, 12624, 12628 & 12632 of 2019

in

Crl.RC.Nos.847 to 859 of 2019

JAYACHANDRAN

[PETITIONER

IN ALL THE PETITIONS]

Vs

THE STATE

[RESPONDENT]

REP. BY INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH-TEAM 1,
EGMORE, CHENNAI-8,
(CRIME NO.561 OF 2006).

IN ALL THE PETITIONS]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.847 to 859/2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence imposed on the petitioner in C.C.NoS.2128, 2131, 2134, 2136, 2126, 2137, 2135, 2133, 2125, 2127, 2130, 2129, & 2132 of 2012 passed by the Learned III Metropolitan Magistrate, George Town, Chennai, dated 12.09.2017, confirmed by the Principal Sessions Judge, in Crl. Appeal No.295,298,301,303,293,304,302,300,292,294, 297,296 & 299/17 dated 19.07.2019, and to release the petitioner on bail pending disposal of the above criminal revision and to pass such or other orders.[Crl.MP.Nos.12591, 12594, 12598, 12597, 12602, 12606, 12609, 12611, 12614, 12618, 12622, 12626 & 12630 of 2019]

[ii] exempt the petitioner to surrender impursuance of the sentence imposed on the petitioner in C.C.NoS.2128, 2131, 2134, 2136, 2126, 2137, 2135, 2133, 2125, 2127, 2130, 2129, & 2132 of 2012 passed by the Learned III Metropolitan Magistrate, George Town, Chennai, dated 12.09.2017, confirmed by the Principal Sessions Judge, in Crl. Appeal NoS.295,298,301,303,293,304,302,300,292,294, 297,296 & 299/17 dated 19.07.2019, and to release the petitioner on bail pending disposal of the above criminal revision and to pass such or other orders.[Crl.M.P.Nos.12593, 12596, 12603, 12600, 12605, 12608, 12612,

12615, 12617, 12620, 12624, 12628 & 12632 of 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CrI.Revision Case No.847 to 859/2019 on the file of the High Court and upon hearing the arguments of M/S.U.CHANDRAMOULI, Advocate for the petitioner [IN ALL THE PETITIONS]and of MR.M.MOHAMED RIYAZ,ADDL.PUBLIC PROSECUTOR on behalf of the Respondent [IN ALL THE PETITIONS]the court made the following order:-

1. These Criminal Miscellaneous Petitions have been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed in the separate judgments, dated 12.09.2017 passed in CC.Nos.2128, 2131, 2134, 2136, 2126, 2137, 2135, 2133, 2125, 2127, 2130, 2129, & 2132 of 2012, respectively, by the learned III Metropolitan Magistrate, George Town, Chennai, as confirmed by the separate judgments, dated 19.07.2019, made in CrI.A.Nos.295, 298, 301, 303, 293, 304, 302, 300, 292, 294, 297, 296 & 299 of 2017, by the Principal Sessions Judge, Chennai respectively and to exempt the Petitioner/ Accused, from surrendering before the Trial Court, in connection with the conviction and sentence, imposed by the separate judgments, dated 12.09.2017 passed in CC.Nos.2128, 2131, 2134, 2136, 2126, 2137, 2135, 2133, 2125, 2127, 2130, 2129, & 2132 of 2012, by the learned III Metropolitan Magistrate, George Town, Chennai, respectively, pending disposal of the Criminal Revision Cases.
2. This court heard the learned counsel on either side and also perused the materials placed on record.
3. In all the cases, there are two accused persons. In all the cases, the petitioner/A2 is one and the same person. In and by the impugned judgements, in all the cases, the Petitioner/ A2 was convicted and sentenced for the offence under Section 409 IPC to undergo one year Simple Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo one month Simple Imprisonment.
4. The brief facts of the prosecution case are that A1 was working as a Property Clerk and then promoted and posted as Head Clerk in the Special Court for EC & NDPS Act cases, Chennai and the petitioner/A2 was working as Assistant in Property Branch as Property Clerk at Special Court for EC & NDPS cases, Chennai. The A1 and the petitioner were in-charge of the case property of the concerned court. On verification of the Property Registrars for the period from 1993 to 30.06.2005, it was found that A1 and the petitioner had misappropriated Indian Currency to the tune of Rs.6,62,999.50/-, 7,500 U.S.Dollar equivalent to Indian Rs.3,74,400/- and Srilankan Currency Rs.3,500 equivalent to Indian Currency Rs.3,500/- and thereby, they have misappropriated a total sum of Rs.10,40,899.50/-. On the basis of the complaint given by the Principal Special Judge, Special Court for EC & NDPS cases, a case was registered and A1 and the petitioner were tried and convicted as stated above. Separate charge sheets were filed and the petitioner was tried in 13 cases as stated above and convicted

and sentenced to undergo imprisonment as stated above.

5. The learned counsel for the Petitioner/A2 would submit that the petitioner had surrendered before the Court on 17.09.2019 and he is in custody and that the petitioner/A2 is aged about 72 years and is suffering from various ailments. He would submit that petitioner/A2 was working as a subordinate to A1 and that he has nothing to do with the offences and it was the responsibility of A1 for keeping the case properties and that there are arguable points available in the Criminal Revision Case, which is not likely to be taken for final hearing in the near future and the Petitioner/ accused has got a fair chance of succeeding in the Criminal Revision Case and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended.
6. The learned Additional Public Prosecutor would submit that the respondent has filed counter and has raised objections for suspending the sentence.
7. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Revision Case, the substantive sentence of imprisonment alone is suspended and the Petitioner/ accused is ordered to be enlarged on bail, on the following conditions:-
 - i. The Petitioner/ A2 shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only), with two sureties, each for a like sum to the satisfaction of the learned III Metropolitan Magistrate, George Town, Chennai.
 - ii. The Petitioner//accused shall report before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-

20/09/2019

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 METROPOLITAN MAGISTRATE,
NO.III,GEORGE TOWN,CHENNAI

2 THE PRINCIPAL SESSIONS JUDGE
CHENNAI

3 THE CHIEF METROPOLITAN
MAGISTRATE,EGMORE[FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH-TEAM 1,
EGMORE, CHENNAI-8,

+13 C.C. to M/S.U.CHANDRAMOULI Advocate on payment of necessary
charges SR.NOS.19688,19686,19687,19685,19689,19690,19691,19692,19693,
19694,19695,19696,19697

Order

in

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in

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Date :20/09/2019

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RD 25/09/2019