



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2019

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.15707 of 2017

Vimala

...Petitioner

-Vs-

1.The State,
Represented by the Inspector of Police,
S1, St,Thomas Mount Police Station,
Chennai,
[Crime No.410/2009]

2.Chelliah Gnanadurai

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the order passed in Crl.M.P.No.1397 of 2017 in C.A.No.38 of 2017 on the file of the Principle District Session Judge, Chegalpet.

For Petitioner : Mr.R.Muniyapparaj

For Respondents: Mr.M.Mohamed Riyaz
Additional Public Prosecutor for R1
No appearance for R2

ORDER

This Criminal Original petition has been filed, seeking to set aside the order of suspension of sentence passed by the Court below in Criminal Appeal No.38 of 2017.

2.The second respondent faced trial before the trial Court for the offence under Sections 417, 420 and 506(i) of IPC. The trial Court by a judgment made in C.C.No.1607 of 2009, convicted the second respondent and sentenced him to undergo 3 years simple imprisonment and directed him to pay a compensation of a sum of Rs.10,00,000/- (Rupees Ten Lakhs) to the petitioner and in default to undergo 6 months simple imprisonment.

3.Aggrrieved by the said order the second respondent has filed a Criminal Appeal before the Principle District Session Judge, Chegalpet, in Criminal Appeal No.38 of 2017. Along with the appeal the second respondent filed a petition for suspension



of sentence and the suspension of sentence was granted by the Court below by imposing various conditions. One such condition was that the second respondent should deposit a sum of Rs.1,00,000/- (Rupees one Lakh only) before the trial Court towards compensation amount, within a period of 30 days. It is seen that the suspension of sentence that was ordered does not contain any default clause.

4.Mr.R.Muniyapparaj, learned counsel for the petitioner submitted that the second respondent did not comply with the condition and consequently did not even execute a bond before the appellate Court and he has been absconding for the last 3 years. The learned counsel further submitted that the Court below had issued a non bailable warrant against the second respondent on 20.11.2018 and till date the same has not been executed.

5.Heard, the learned Additional Public prosecutor appearing on behalf of the respondent police.

6.The notice sent to the second respondent has been returned as un-served with an endorsement that he is not residing in the said address. Obviously the second respondent is evading notice and there is no requirement to issue notice to the second respondent in this petition since, he has been absconding for the last 3 years and non bailable warrant is also pending against the second respondent.

7.In the facts and circumstances of this case, the suspension of sentence order passed by the Court below in Crl.M.P.No.1397 of 2017 dated 25.04.2017 is hereby canceled. There shall be a further direction to the Judicial Magistrate, Alandur, to immediately issue a non bailable warrant to secure the second respondent and to send him to suffer imprisonment as per the judgment dated 27.03.2017 made in C.C.No. 1607 of 2009. The first respondent police shall execute the non bailable warrant within a period of four weeks from the date on its issuance.

8.Accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



To

1.The Principal District Sessions Judge,
Chengalpet.

2.The Judicial Magistrate,
Alandur.

3.-Do- Thro The Chief Judicial Magistrate,
Chengalpattu.

4.The Inspector of Police,
S1, St,Thomas Mount Police Station,
Chennai,

5.The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.15707 of 2017

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srg 28/08/2019