



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.12.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.R.C.No.1370 of 2019

1. Gowthaman
2. Kowsalya
3. Vignesh
Petitioners

..

Vs

State rep by
The Sub-Inspector of Police,
Central Crime Branch, Salem.
(Cr.No.19/2017)
Respondent

..

Prayer:- This Petition is filed under section 397 read with 401 of Cr.P.C., to set aside the order dated 25.11.2019 passed in Crl.M.P.No.659/2019 in C.A.No.221 of 2019 on the file of the learned III Additional District Judge, Salem and to allow the above Criminal Revision.

For Petitioner : Mr.R.Nalliyappan
For Respondent : Mr.K.Prabakar, APP

ORDER

This Criminal Revision Petition has been filed, seeking to set aside the Order dated 25.11.2019 passed in Crl.M.P.No.659/2019 in C.A.No.221 of 2019 by the learned III Additional District Judge, Salem, thereby dismissing the petition seeking suspension of sentence.

2. Heard the learned Counsel for the petitioners and the learned Additional Public Prosecutor appearing for the respondent.

3. On the face of the records, this Court is of the view that the issue which was failed to be considered by the trial court, while dismissing the petition seeking suspension of sentence filed by the petitioners is related to payment of fine amount and production of necessary proof for the same. The order of the lower court proceeds as follows:

"The petitioner side except the above said averment, did not furnish any more detail regarding sentence passed against the petitioners



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by the trial court on this application. Further the petitioners side failed to mention any other details on this application whether any fine amount was imposed on the petitioners and if such fine was imposed, whether such fine was remitted or not. In this situation the respondent/prosecution side object that if the sentence imposed on the petitioners was suspended, the progress of the appeal likely to be affected. In considering all above circumstances it is decided to dismiss this application.''

4. When the petitioners before the trial court produced the Receipts for payment of fine dated 19.09.2019, the trial court has failed to consider the same and erroneously passed the aforesaid order dismissing the petition seeking suspension of sentence. In such view of the matter, the said order cannot stand in the eye of law.

5. Therefore, the order dated 25.11.2019 passed in CrI.M.P.No.659/2019 in C.A.No.221 of 2019 on the file of the learned III Additional District Judge, Salem, is set aside and the matter is remanded back to the trial court for passing appropriate orders.

6. The Criminal Revision is allowed to the extent as indicated above.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

tsi

To:

1. The III Additional District Judge, Salem.
2. The Sub-Inspector of Police,
Central Crime Branch, Salem.
3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.R.Nalliyappan , Advocate SR.No. 103907

CrI.R.C.No.1370 of 2019

A.SK(17/12/2019)