

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Nineteenth day of December Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION Nos.18257 & 18258 of 2019

IN CRL.RC.NO.1383/2019

1 PRADEEP
2 GAJENDIRAN
3 PORKILAIKRISHNAVENI

[PETITIONERS]

Vs

STATE REP.BY
THE STATION HOUSE OFFICER,
PCR CELL,
PUDUCHERRY.

[RESPONDENT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1383/2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence imposed on the petitioner as per order passed in C.A.No.36 of 2016, dated 08.11.2019 on the file of the II Additional Sessions Judge at Puducherry, whereby modified the order passed by the Chief Judicial Magistrate at Puducherry in C.C.No.56 of 2013, dated 14.09.2016, pending disposal of the above Crl.RC.No.1383/2019. [IN CRL.MP.NO.18257/2019]

[ii] exempt the petitioners from surrender before the trial court, in pursuant to the judgment in C.A.No.36 of 2016, dated 08.11.2019 on the file of the II Additional Sessions Judge at Puducherry, whereby modified the order passed by the Chief Judicial Magistrate at Puducherry in C.C.No.56 of 2013, dated 14.09.2016, pending disposal of the Crl.RC.No.1383/2019. [IN CRL.MP.NO.18258/2019]

Order : These petitions coming on for orders upon perusing the petitions and the Memorandum of Grounds in Crl.Revision Case No.1383/2019 on the file of the High Court and upon hearing the arguments of M/S.R.HEMALATHA, Advocate for the petitioners and of MR.BHARATH CHAKARAVARTHY, ADDITIONAL PUBLIC PROSECUTOR [PUDUCHERRY] on behalf of the Respondent the court made the following order:-

The 1st petitioner faced trial in C.C.No.56 of 2013 on the file of the learned Chief Judicial Magistrate, Puducherry along with the petitioners 2 and 3 herein. Under the judgment dated

14.09.2016, the trial Court convicted the 1st petitioner / 1st accused for the offence under Section 417 IPC and sentenced him to undergo one year rigorous imprisonment and to pay a fine of Rs.500/- and also convicted him for the offence under Section 7(1) (d) of the Protection of civil Rights Act, 1955 (PCR Act) read with 34 IPC and sentenced him to undergo six months rigorous imprisonment and to pay a fine of Rs.500/-, and in default of payment of fine amount, sentenced him to undergo one month simple imprisonment.

2. The appellate court, viz., Court of II Additional Sessions Judge, Puducherry, in the judgment, dated 08.11.2019, while setting aside the conviction and sentence imposed on the second and third petitioners/A2 and A3 for the offence under Section 417 IPC, confirmed the sentence imposed on the first petitioner herein/A1 for the said offence. Insofar as the conviction and sentence imposed by the trial Court for the offence under Section 7(i)(d) of the PCR Act read with 34 IPC is concerned, the appellate court while upholding the conviction, modified the sentence into one of six months simple imprisonment with fine of Rs.500/- each with default sentence of one month simple imprisonment.

3. As against the aforesaid conviction and sentence, the petitioners have filed this Criminal Revision along with the petitions seeking suspension of sentence and exemption from surrendering before the trial court. It is pertinent to note here that in respect of the petitioners 2 and 3/Accused 2 and 3, the petitions seeking suspension of sentence and exemption to surrender were already ordered by this Court on 11.12.2019.

4. It is submitted by the learned counsel for the 1st petitioner / 1st accused that the amount of fine had already been paid. The learned counsel further submitted that there are several infirmities and inconsistencies in the prosecution case and there are also contradictions in material particulars in the evidence of the prosecution. The learned counsel also submitted that there are arguable points available in this Criminal Revision, which is not likely to be taken up for final hearing in the near future and hence, the substantive sentence imposed against the 1st petitioner may be suspended.

5. Heard the learned Additional Public Prosecutor (Puducherry) on the submissions made by the learned counsel for 1st petitioner.

6. The first petitioner/A1 surrendered before the trial Court on 10.12.2019 and he was remanded to undergo imprisonment, when the Criminal Revision Petition is pending before this Court. Therefore, CrI.M.P.No.18258/2019 seeking exemption to surrender before the trial court is dismissed insofar as the 1st petitioner/1st accused is concerned.

7. Considering the facts and circumstances of the case and taking into consideration the submissions of learned counsel on either side, this Court is of the view that the 1st petitioner/1st accused herein alone, be granted the relief of suspension of sentence.

8. Accordingly, the substantive sentence of imprisonment alone is suspended and the 1st petitioner is directed to be enlarged on bail on the following conditions:-

- a) The 1st Petitioner/1st Accused is directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Chief Judicial Magistrate, Puducherry;
- b) The 1st Petitioner/1st Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.
- c) The 1st Petitioner/1st Accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every English Calender Month, until the disposal of the Revision Case and if he is not able to appear before the Trial Court on any day, due to unavoidable circumstances, he shall make arrangements to file an application under Section 317 of Cr.PC. and shall appear before the Trial Court on any other day in lieu of his absence, as directed by the Trial Court. Such an application shall not be entertained often.

-sd/-

19/12/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

WEB COPY

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 II ADDITIONAL SESSIONS JUDGE,
PUDUCHERRY.

2 THE CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY.

3 THE PUBLIC PROSECUTOR
PUDUCHERRY.

4 THE STATION HOUSE OFFICER,
PCR CELL, PUDUCHERRY.

+1C.C. to M/S.R.HEMALATHA Advocate on payment of necessary
charges SR NO.26181

Order

in

CRL MP.NOS.18257 & 18258 OF 2019

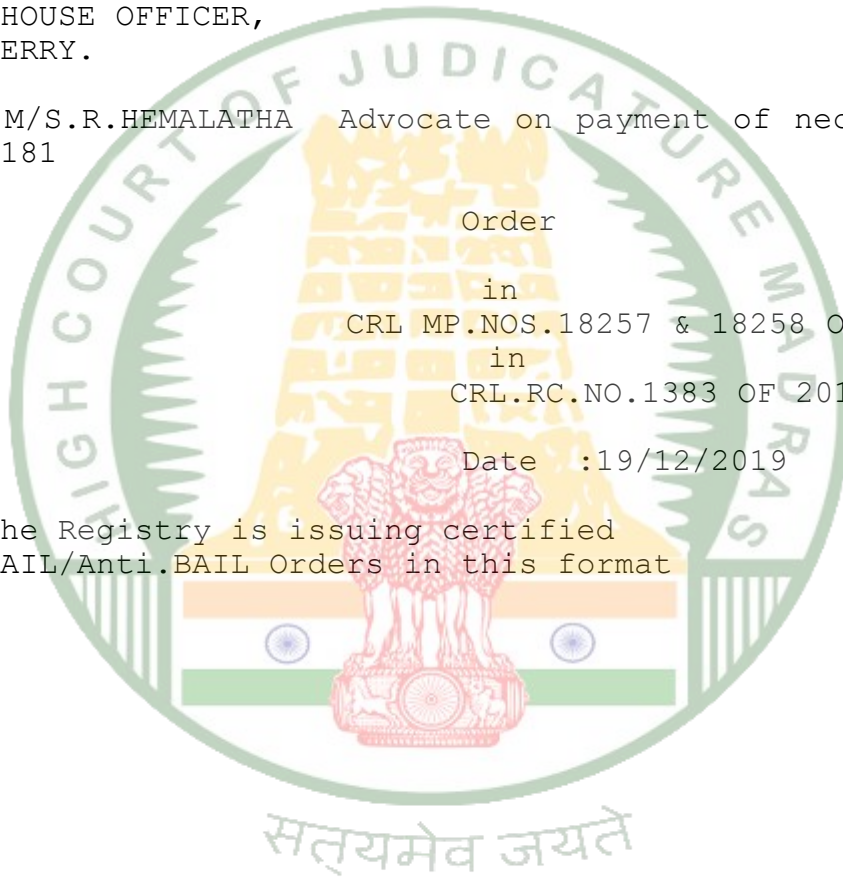
in

CRL.RC.NO.1383 OF 2019

Date :19/12/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

MK:19/12/2019



WEB COPY