

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Thirteenth day of December Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.18196 of 2019

IN CRL.RC.NO.1374 OF 2019

R.DURAISAMY

[PETITIONER]

Vs

V.C.VELMURUGAN

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.1374 OF 2019 on the file of the High Court, the High Court will be pleased to exempt the petitioner from surrendering while filing the criminal revision petition against the judgment dated 28.11.2019 made in C.A.No.18/2019 on the file of the learned III Additional District Sessions Judge, Erode confirming the judgment passed by the learned Judicial Magistrate No.I, Gobichettipalayam in STC.No.468/2019 dated 04/06/2016 to undergo 6 months of simple imprisonment and to pay compensation sum of Rs.15,00,000/- CRL.RC.NO.1374 OF 2019 [IN CRL.MP.NO.18194 OF 2019]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.1374 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.V.SUBRAMANIAN, Advocate for the petitioner, the court made the following order:-

The petitioner, who stood convicted for offence under Section 138 of Negotiable Instruments Act, seeks exemption from surrendering to custody, as a pre-condition for consideration of his bail application moved in the Revision Case preferred by him before this Court.

2. Considering the facts and circumstances of the case and the earlier decision of this Court in the case of **Easwaramurthy Vs. N.Krishnaswamy (2006) CRI.L.J. 4105** which in turn relied on the decision of the Apex Court in **Bihari Prasad Singh Vs. State of Bihar (2000) SCC (Cri) 1380**, wherein it has been categorically held that there is no precondition requiring the petitioner's surrender or being in confinement in availing the relief of suspension of sentence under Section 397 Cr.P.C. in exercise of revisional powers by the High Court, this Court considers it appropriate to allow this petition as prayed for.

3. Accordingly, the petitioner shall not be required to surrender before the trial Court, as per the judgment of the appellate Court dated 28.11.2019 in Criminal Appeal No.18 of 2019, pending disposal of the main revision.

-sd/-
13/12/2019

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 III ADDITIONAL DISTRICT
AND SESSIONS JUDGE, ERODE.

2 THE JUDICIAL MAGISTRATE,
NO.I, GOBICHETTIPALAYAM.

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

+1C.C. to M/S.V.SUBRAMANIAN Advocate on payment of necessary
charges SR NO.26025

Order

in
CRL MP.18196/2019

in
CRL RC.1374/2019

Date :13/12/2019

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MK:17/12/2019