

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Thirtieth day of December Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice G.R.SWAMINATHAN

CRIMINAL MISCELLANEOUS PETITION No.19263 of 2019

IN CRL.RC.NO.1525 OF 2019

KUPPUSAMY

[PETITIONER / PETITIONER /
APPELLANT / ACCUSED]

Vs

STATE REP. BY

INSPECTOR OF POLICE,

TRAFFIC INVESTIGATION,

POONAMALLEE, CHENNAI.

(CRIME NO.303/2007

KORATTUR POLICE STATION)

[RESPONDENT / RESPONDENT /
RESPONDENT / COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.1525/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner herein by the learned 1st Additional District and Sessions Judge, Thiruvallur made in C.A.No.84/2017 dated 15.10.2019 confirming the conviction and sentence passed by the learned Judicial Magistrate, Ambattur, Thiruvallur District, made in C.C.No.42 of 2008 dated 06.06.2017 convicting the petitioner under Sec.279 IPC and Sentencing him to undergo Three months SI and to pay a sum of Rs.500/- in default to undergo one week SI and convicting him under Sec.304(A) IPC and sentencing him to undergo six months SI and to pay fine a sum of Rs.5000/- in default to undergo one month SI and directing both sentences to run concurrently and enlarge the petitioner on bail, pending disposal of the above Crl.RC.No.1525/2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.1525/2019 on the file of the High Court and upon hearing the arguments of M/S. T.R.RAVI, Advocate for the petitioner and of M/S.T.SHUNMUGARAJESWARAN, GOVERNMENT ADVOCATE O/O.PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

Petitioner was convicted for offences under Sections 279 and 304-A IPC, and sentenced to 3 months S.I. and fine of Rs.500/- i/d 1 week S.I. for offence u/s.279 IPC and 6 months S.I. and fine of Rs.5,000/- i/d 1 month S.I. for offence u/s.304-A IPC by learned Judicial Magistrate, Ambattur, under judgment dated 06.06.2017 in C.C.No.42 of 2008. The conviction and sentenced imposed by the trial Court was confirmed by learned I Additional District and Sessions Judge, Thiruvallur under judgment dated 15.10.2019 in C.A.No.84 of 2017. Hence, the petitioner seeks suspension of sentence.

2. Learned counsel for petitioner submits that there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses. It is further represented 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 this Court. The decisions of the Honourable Apex Court in BIHARI PRASAD SINGH VS STATE OF BIHAR AND ANOTHER (2000 SCC (Cri) 1380) and that of the IBRAHIM VS STATE OF KERALA (1979 KLT 857) are relied upon in this regard.

3. Heard learned Government Advocate (Crl.side) on the submissions made by learned counsel for petitioner.

4. The above decisions have been relied upon time and again by this Court towards reaching the conclusion that in moving a revision against conviction, the accused need not surrender and undergo confinement before seeking the relief of suspension of sentence pending disposal of the Criminal Revision.

5. Therefore, in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the revision as contended by learned counsel for petitioner and further the revision is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond in a sum of Rs.10,000/- each (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Ambattur, and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending revision.

-sd/-

30/12/2019

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 1ST ADDITIONAL DISTRICT AND
SESSIONS JUDGE, THIRUVALLUR.

2 THE JUDICIAL MAGISTRATE,
AMBATTUR, THIRUVALLUR DISTRICT.

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
TRAFFIC INVESTIGATION,
POONAMALLEE, CHENNAI.

+1 C.C. to M/S. T.R.RAVI Advocate on payment of necessary
charges SR.No.26706

Order

in
CRL MP.19263/2019

in
CRL.RC.No.1525/2019

Date :30/12/2019

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