

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Third day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.15789 OF 2018

IN CRL.A.NO.290 OF 2017

1 M/S.NITHI EMU FARMS [PETITIONER / APPELLANT / ACCUSED]
2 M/S.NITHI EMU FARMS INDIA PVT LTD
3 M/S.NITHI POULTRY FARMS
4 M/S.NITHI POULTRY FARMS INDIA PVT LTD
5 SEKAR @ A.PALANISAMY
6 MUNIYAN @ PANDIYAN @ MURUGAVEL
7 P.KARTHIKEYAN

Vs

THE STATE REP. BY, [RESPONDENT]
THE INSPECTOR OF POLICE,
EOW -II, ERODE DISTRICT.
(CR.NO.741/2012)

Petition praying that in the circumstances stated therein the High Court will be pleased to modify the order, as payment of 10% of fine amount instead of 25% of fine amount which was ordered in Crl.M.P.No.15416/2018 in Cr.A.No.290/2017 order dated 06.12.2017, for 5th and 7th accused by the Hon'ble court.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.P.SARAVANAN, Advocate for the petitioner and of MRS.V.SARATHADEVI Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

This petition has been filed seeking to modify the order passed by this Court in Crl.M.P.No.15416 of 2018 in Crl.A.No.290 of 2017.

2.In Crl.M.P.No.15416 of 2017, the learned Judge of this Court has passed the order on 06.12.2017, as under:

"4.The learned Government Advocate (Crl.side) fairly submitted that these petitioners are people of no substantial means and it will be very difficult for them even to pay the fine amount. The allegation against the petitioners is that they were running EMU FARMS and had collected money from various persons and had not repaid the amount.

5.Taking into consideration the financial status of the petitioners, four weeks time is extended from today for payment of atleast a portion of the fine amount not less than 25% of the fine amount before the TNPID Court.

6.The petitioners shall continue to appear before the trial Court on every Monday at 10.30 a.m. until further orders.

Post for reporting compliance on 08.02.2017."

3.In response to the Crl.M.P.No.15789 of 2018, a detailed counter affidavit has been filed on behalf of the respondent. In the counter affidavit, it is averred as follows:

"5.It is submitted that the appellant/accused were arrested on 17.2.2018. Against the conviction made by the trial Court, the accused have preferred an appeal in C.A.No.290 of 2017 in which Crl.M.P.No.6980 and 6981 of 2017 has been filed for suspension of sentence. Considering the submissions made by the accused herein praying for grant of interim bail that they would raise the fine amount imposed by the TNPID Court and deposit the same, this Court granted bail to the accused on 09.11.2017 subject to certain conditions wherein each of the A5 to A7 were directed to deposit part of their share of the fine amount imposed by TNPID Court being sum of Rs.14,40,000/- each within a period of two weeks from the date of release. The said order of the Hon'ble High Court, Madras was not complied within the period of two weeks and the accused have filed petition in Crl.M.P.No.15416 of 2017 seeking Extension of Time for deposit of the said amount. The Hon'ble High Court was liberal in granting Extension of time and also reduced the portion of the fine amount to be paid to be not less than 25% imposed by the TNPID, which would be a sum of Rs.3,60,000/- each within a period of 4 weeks. The said order was also not complied by A5 to A7 and again they preferred Crl.M.P.No.1300 of 2018 seeking for Extension of Time for the payment of said amount and this Hon'ble High Court was inclined to extend the time for 40 days for the payment of the said amount failing which, the suspension of sentence shall automatically vacated on the expiry of 40 days."

4.The learned Government Advocate for the respondent would submit that on more than two occasions, at the instance of the petitioners herein, the time was extended and the Court has acceded liberally to the request made by the petitioners on the earlier occasions. But despite the repeated extensions given, the petitioners have not complied with the conditions and therefore, the present petition need not be entertained and the same needs to be rejected outright.

5.The learned counsel for the petitioners would submit that the petitioners are unable to deposit even the 25% of the fine amount, despite the extensions and the learned counsel would finally seek three months extension.

6.This Court is unable to appreciate the request of the petitioners, since as contended by the learned Government Advocate for the respondent, on more than two occasions, time was extended by this Court and more than one year had elapsed since the passing of the original order, reducing the deposit of the fine amount to 25%. Despite the granting of sufficient time and further extension of time, the petitioners are unable to make the payment. Such repeated request, if entertained, will only give rise to such petitions being filed in order to circumvent the earlier orders passed by this Court. If such petitions are entertained repeatedly there will not be any sanctity to the earlier orders passed by this Court. When extensions were granted at the instance of the petitioners themselves in the earlier orders by this Court, this Court cannot be approached again and again for extension.

On the whole, this Court finds that the present petition lacks any *bona fide* and therefore, the same deserves to be dismissed and accordingly this petition is dismissed.

-sd/-

23/01/2019

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

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TRUE COPY

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

TO

1 THE SPECIAL JUDGE,
SPECIAL COURT FOR TNPID ACT CASES,
COIMBATORE DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
EOW -II, ERODE DISTRICT.

+1C.C. to M/S.P.SARAVANAN Advocate on payment of necessary
charges SR NO.1526

Order

in

CRL MP.15789/2018

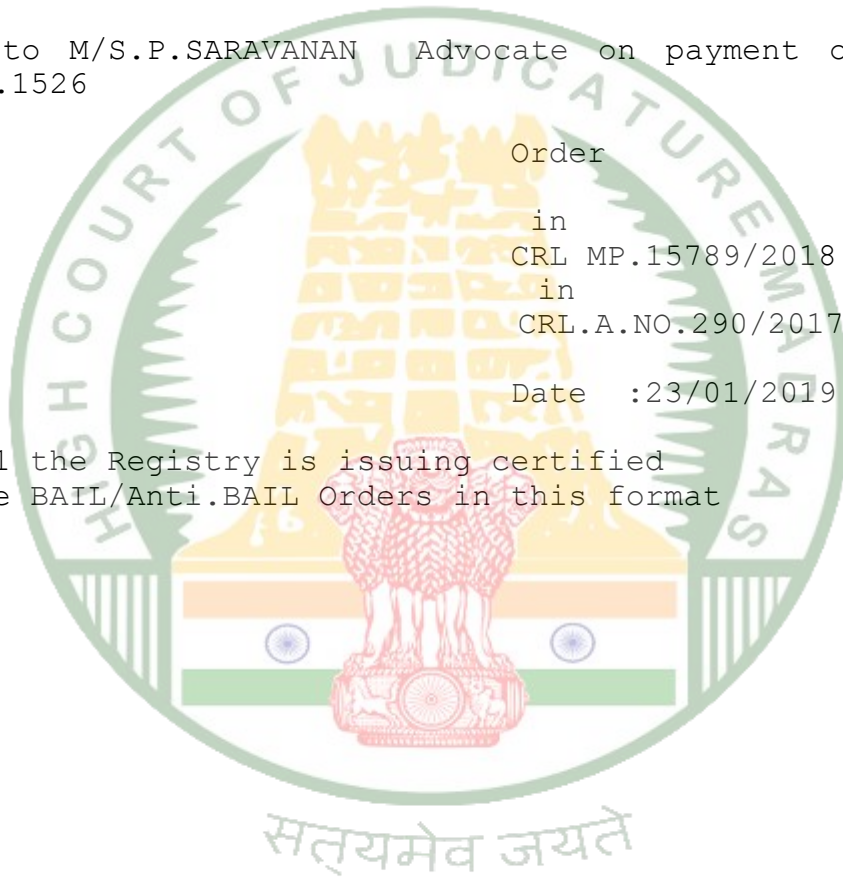
in

CRL.A.NO.290/2017

Date :23/01/2019

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MK:31/01/2019



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