

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Seventh day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.416 of 2020

IN CRL.RC.NO.795 OF 2019

DHANAPAL

[PETITIONER / PETITIONER]

Vs

THE STATE REP BY ITS [RESPONDENT / RESPONDENT]
THE DEPUTY SUPERINTENDENT OF POLICE,
JALAKANDAPURAM POLICE STATION,
SALEM DISTRICT.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.795/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner in judgement made in CA.No.72/2019 dated 17.06.2019 passed by the Additional District (Fast Track) Court, Mettur and release the petitioner on bail in pending disposal in Crl.R.C.No.795/2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.795/2019 on the file of the High Court and upon hearing the arguments of M/S.M.RAJASEKHAR, Advocate for the petitioner and of MR.K.PRABAKAR, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

The petitioner faced trial in C.C.No.3 of 2012 on the file of learned Judicial Magistrate No.2, Mettur. Under judgment dated 06.01.2019, the trial Court found the petitioner guilty under Sections 363, 365, 344 and 506(ii) of IPC and convicted him and sentenced to undergo Rigorous Imprisonment for a period of one year and to pay a fine of Rs.2,000/-, in default, to undergo simple imprisonment for a period of one month each for the offences under Sections 363 and 365 of IPC; sentenced to undergo simple imprisonment for 6 months and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for a period of 4 weeks each for the offences under Sections 344 and 506(ii) of IPC. Aggrieved over the same, the petitioner has filed a Criminal Appeal in C.A.No.72/2019 on the file of the learned Additional District Judge, Additional District (Fast Track) Court, Mettur. By judgment dated 17.06.2019, the appellate court confirmed the conviction and sentence of the trial court, thereby dismissing the Criminal Appeal. Against the same, the petitioner has filed this Criminal Revision along with the petition seeking suspension of sentence.

2.It is submitted by the learned counsel for the petitioner/accused that the amount of fine had already been paid, as directed by the appellate Court in its judgment. 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 petitioner may be suspended.

3.Heard learned Additional Public Prosecutor on the submissions made by the learned counsel for petitioner.

4.Considering the facts and circumstances of the case and taking into account the submissions made by the learned counsel on either side, this Court is of the view that the petitioner herein can be granted the relief of suspension of sentence.

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

- a) The Petitioner/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 Judicial Magistrate No.II, Mettur, Salem District;
- b) The Petitioner/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; and
- c) The Petitioner/ Accused shall appear before the Trial Court on the first working day of every month at 10.30 a.m., until the disposal of the revision 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/-
07/02/2020

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

TRUE COPY

TO

1 THE ADDITIONAL DISTRICT
(FAST TRACK) COURT, METTUR.

2 THE JUDICIAL MAGISTRATE,
NO.II, METTUR, SALEM DISTRICT.

3 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE DEPUTY SUPERINTENDENT OF POLICE,
JALAKANDAPURAM POLICE STATION,
SALEM DISTRICT.

+1 C.C. to M/S.M.RAJASEKHAR Advocate on payment of necessary
charges SR.No.2455

Order

in
CRL MP.416/2020

in
CRL.RC.795/2019

Date :07/02/2020

From 7.2.2001 the Registry is issuing certified
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