

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.1596 of 2020

IN CRL.RC.NO.219 OF 2020

SHEELA THOMAS

[PETITIONER / APPELLANT / ACCUSED]

Vs

MOLLY JOSEPH

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.219 OF 2020 on the file of the High Court, the High Court will be pleased to pass an order granting exempt the revision petitioner from surrendering before the court of learned Metropolitan Magistrate (FTC-II), Allikulam at Egmore in C.C.NO.58 of 2011 conforming the judgment delivered by the court of the learned XVIII Additional Sessions Judge, at Chennai in CRL.A.NO.617 of 2018 vide judgment dated 16.10.2019, in CRL.RC.NO.219 OF 2020 [IN CRL.MP.NO.1596 OF 2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.219 OF 2020 on the file of the High Court and upon hearing the arguments of MR.HAJA NAZIRUDEEN SENIOR COUNSEL FOR M/S.R.KARTHIK, 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 16.10.2019 in Criminal Appeal No.617 of 2018, pending disposal of the main revision.

-sd/-
07/02/2020

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 XVIII ADDITIONAL SESSIONS JUDGE,
CHENNAI.

2 THE METROPOLITAN MAGISTRATE,
FAST TRACK-II, EGMORE,
ALLIKULAM, CHENNAI.

3 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

+2C.C. to M/S.R.KARTHIK Advocate on payment of necessary
charges SR NO.2466

Order

in

CRL MP.1596/2020

in

CRL RC.219/2020

Date :07/02/2020

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MK:26/02/2020