



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Thirteenth day of January Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.18552 & 18555 of 2019

IN CRL.R.C.NO.1442 of 2019

WILSON

[PETITIONER IN BOTH THE PETITIONS]

Vs

STATE REP BY ITS
THE INSPECTOR OF POLICE,
K-10, KOYAMBEDU POLICE STATION,
TRAFFIC AND INVESTIGATION WING,
CHENNAI-600 107.
CR.NO.15/KM3/2008.

[RESPONDENT IN BOTH THE PETITIONS]

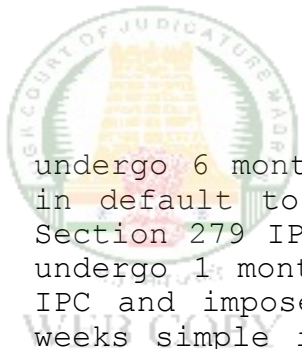
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence and enlarge the petitioner on bail in C.A.No.237/2019 dated 19.10.2019 confirmed by the Learned 18th Additional Sessions Judge Chennai made by the Learned 6th Metropolitan Magistrate Court at Egmore Chennai made in C.C.No.6166/2008 dated 31.05.2019 pending disposal of the present Crl.R.C.NO.1442 of 2019. (Crl.M.P.No.18552 of 2019)

(ii) To exempt the petitioner from surrendering before the Learned 6th Metropolitan, Magistrate Court at Egmore, Chennai in C.C.No.6166/2008 pending disposal of the present Crl.R.C.NO.1442 of 2019. (Crl.M.P.No.18555 of 2019)

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.M.VIMAL B.CRIMSON, Advocate for the petitioner, [IN BOTH THE PETITIONS] and of MR. K.PRABAKAR, Additional Public Prosecutor, on behalf of the Respondent, [IN BOTH THE PETITIONS] the court made the following order:-

By judgment dated 31.05.2019 passed by the learned VI Metropolitan Magistrate at Egmore, Chennai in C.C.No.6166 of 2008, the petitioner was convicted under 304(A) IPC and sentenced to



undergo 6 months simple imprisonment and to pay a fine of Rs.1,000/- in default to undergo 1 month simple imprisonment; convicted under Section 279 IPC and imposed to pay a fine of Rs.1,000/- in default to undergo 1 month simple imprisonment; convicted under Section 337 of IPC and imposed to pay a fine of Rs.500/- in default to undergo 2 weeks simple imprisonment and he was also imposed to pay a fine of Rs.500/- under Section 134 (A) (AA) r/w 187 of the Motor Vehicles Act in default to undergo 2 weeks simple imprisonment.

2.Challenging the said conviction and sentence, the petitioner has preferred an appeal in CrI.A.No.237 of 2019 before the learned XVIII Additional Sessions Judge, Chennai, in which the Appellate Court dismissed the Appeal and confirmed the judgment of the trial court. Aggrieved over the same, the petitioner has filed the present Criminal Revision Case. He also filed two Miscellaneous Petitions seeking suspension of sentence and exemption from surrendering before the trial Court, pending disposal of this Criminal Revision.

3.The learned counsel for the petitioner has submitted that while convicting the accused on certain issues, the Trial Court had given its finding by substituting its own version without legal proof. He further submitted that there are arguable points available in the Criminal Revision Case, 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 and the petitioner may be exempted from surrendering before the Trial Court.

4.Heard the learned counsel for the petitioner and also perused the materials placed on record.

5.At this juncture, it is relevant to point out that the Supreme Court, in *Bihari Prasad Singh v. State of Bihar* and another [2000 SCC (CrI) 1380], was of the view that while seeking the relief of suspension of sentence, the accused need not necessarily be under confinement. In *Ibrahim v. State of Kerala* [1979 KLT 857], it was held that for grant of suspension of sentence, the accused need not surrender and undergo confinement and filing revision without surrendering and confinement is well within the powers contemplated under Section 397(1)Cr.P.C, as the said provision itself is very unequivocal and unambiguous.

6.In the light of the aforesaid legal propositions and considering the facts and circumstances of the case and also taking note of the submissions of the learned counsel for the petitioner, this Court is of the view that the substantive sentence of imprisonment alone can be suspended subject to certain conditions. Accordingly, till the disposal of the Criminal Revision Case, the reliefs of exemption from surrender before the Trial Court, suspension of sentence and bail are granted, on the following conditions:-

a) The Petitioner/Accused is ordered to be released on bail, on his executing 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 6th Metropolitan Magistrate Court at Egmore, Chennai;

b) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

The Petitioner/Accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every English Calendar Month, until the disposal of the revision case 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/-
13/01/2020

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 VI METROPOLITAN MAGISTRATE AT EGMORE,
CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
K-10, KOYAMBEDU POLICE STATION,
TRAFFIC AND INVESTIGATION WING,
CHENNAI-600 107.

5 THE XVIII ADDITIONAL SESSIONS JUDGE,
CHENNAI.



+1 C.C. to M/S.M.VIMAL B.CRIMSON Advocate on payment of
necessary charges SR.NO.765

WEB COPY

Order

in

CRL MP.18552 & 18555/2019

in

CRL.R.C.NO.1442/2019

Date :13/01/2020

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TA-13/01/2020