



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.Nos.5173 and 5174 of 2022

in Crl.R.C.No.505 of 2022

P.Damodarasamy

... Petitioner /
A-2
[in both Crl.M.Ps]

versus

The State,
Rep. by The Inspector of Police,
City Crime Branch,
Coimbatore.
(Crime No.38 of 2002)

... Respondent /
Complainant
[in both Crl.M.Ps]

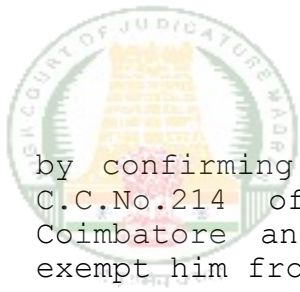
COMMON PRAYER: Criminal Miscellaneous Petitions have been filed under Sections 397(1) & 482 of Cr.P.C., praying to suspend the sentence of imprisonment imposed on the petitioner by the IV Additional District and Sessions Court, Coimbatore, in Crl.A.No.563 of 2018 dated 31.03.2022, confirming the order of the learned Judicial Magistrate No.III, Coimbatore in C.C.No.214 of 2004 dated 07.12.2018 and to enlarge the petitioner on bail pending disposal of the above Criminal Revision Case and to exempt the petitioner from surrendering before the trial Court.

For Petitioner : Mr.E.K.Kumaresan
[in both Crl.M.Ps]

For Respondent : Mr.Leonard Arul Joseph Selvam
[in both Crl.M.Ps] Government Advocate (Crl.Side)

COMMON ORDER

These Criminal Miscellaneous Petitions have been preferred by the petitioner/A-2, seeking to suspend the sentence imposed upon him, by judgment and order dated 31.03.2022 passed in Crl.A.No.563 of 2018 by the learned IV Additional District and Sessions Judge, Coimbatore,



by confirming the judgment and sentence dated 07.12.2018 passed in C.C.No.214 of 2004 by the learned Judicial Magistrate No.III, Coimbatore and to enlarge the petitioner on bail and seeking to exempt him from surrendering before the trial Court.

2. The petitioner herein is arrayed as A-2 in C.C.No.214 of 2004 on the file of the learned Judicial Magistrate No.III, Coimbatore. He was found guilty of the offences under Sections 120 (B), 420, 406, 466, 474, 466 r/w 471 of IPC and has been convicted and sentenced to undergo three years Rigorous Imprisonment along with fine of Rs.5,000/- for each of the offences, in default, to undergo 9 months Simple Imprisonment for each of the offences. All the sentences were ordered to run concurrently.

3. Aggrieved against the same, the petitioner has filed appeal in CrI.A.No.563 of 2018 and the learned IV Additional District and Sessions Judge, Coimbatore, by judgment dated 31.03.2022 had dismissed the appeal and confirmed the conviction and sentence, against which, the present revision has been filed.

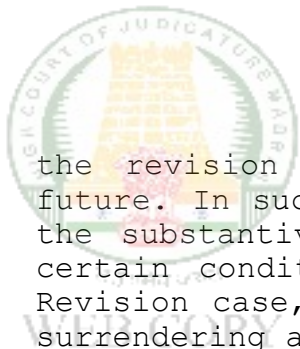
4. The case of the prosecution is that the petitioner/A-2 along with other accused had created forged and fabricated documents and obtained loan for a sum of Rs.25,95,000/- from the bank. Therefore, the respondent police registered a case against the petitioner for the offences punishable under Sections 120(B), 420, 406, 466, 474, 466 r/w 471 of IPC.

5. Heard Mr.E.K.Kumaresan, learned counsel appearing for the petitioner/accused and Mr.Leonard Arul Joseph Selvam, learned Government Advocate (Crl. Side), appearing for the respondent/State and also perused the materials placed on record.

6. According to the learned counsel for the petitioner/accused, there are arguable points available in the Criminal Revision Case and the petitioner/accused has got a fair chance of succeeding in the Criminal Revision Case and hence, the substantive sentence imposed against the petitioner/accused may be suspended and the petitioner may be exempted from surrendering before the trial Court.

7. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent/State raised serious objection for allowing this petition. Further, he would contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.

8. Submissions made by the learned counsel appearing on either side are considered. The evidence given by P.W.1 in respect to the alleged occurrence needs a detailed appraisal. Here, it is a case,



the revision petition is not likely to be taken up in the near future. In such a view of the matter, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Revision case, the reliefs of suspension of sentence, exemption from surrendering and bail are granted on the following conditions:

(a) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.III, Coimbatore;

(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 shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

9. With the above directions, these Criminal Miscellaneous Petitions are ordered.

-sd/-
19/04/2022

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 IV ADDITIONAL DISTRICT AND
SESSIONS JUDGE, COIMBATORE.

2 THE JUDICIAL MAGISTRATE,
NO.III, COIMBATORE



3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
CITY CRIME BRANCH,
COIMBATORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SECTION OFFICER
CRIMINAL SECTION,
HIGH COURT, MADRAS.

+2 C.C. to M/S. E.K.KUMARESAN Advocate on payment of necessary
charges SR.NO.5752

Order
in
CRL MP.5173 & 5174/2022
in
CRL RC.505/2022

Date :19/04/2022

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JPA 19/04/2022