



IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Friday, the Eighteenth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice N.SESHASAYEE

CRIMINAL MISCELLANEOUS PETITION No.9860 of 2021

in Cr1.R.C.No.592 of 2021

C.VIJAYAKUMAR @ VIJI

[ PETITIONER/APPELLANT/ACCUSED ]

Vs

STATE REP BY

[ RESPONDENT ]

THE SUB INSPECTOR OF POLICE,  
G-5, SECRETARIAT COLONY POLICE STATION,  
CHENNAI 600 012.  
(CRIME NO.422/2017)

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Suspend the sentence passed in Cr1.A.No.16 of 2019 (on the file of Learned XXIII Additional Sessions Court, Allikulam,) modifying the order in C.C.No.5913 of 2017 (on the file of Hon`ble II Metropolitan Magistrate at Egmore, Chennai) dated 19.08.2021 and enlarge the petitioner on bail pending disposal of Cr1.R.C.No.592 of 2021.

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.A.MATHEW BERCHMANS, Advocate for the petitioner and of M/S.LEONARD ARUL JOSEPH SELVAM, Govt. Advocate ( Cr1. Side) on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence imposed on him by an order dated 19.08.2021 in Cr1.A.No.16 of 2019 passed by the XXIII Additional Sessions Judge, Allikulam, Chennai modifying the judgment dated 20.12.2018 in C.C.No.5913 of 2017 passed by the II Metropolitan Magistrate, Egmore, Chennai.



2. The petitioner faced trial in C.C.No.5913 of 2017 on the file of the II Metropolitan Magistrate Court, Egmore, Chennai. and the trial Court, by judgment dated 20.12.2018, convicted and sentenced the petitioner for the following offences :

(a) for the offence under Section 341 IPC the petitioner was sentenced to undergo simple imprisonment for a period of one month and to pay a fine of Rs.500/-, in default to undergo simple imprisonment for a period of one week.

(b) for the offence under Section 326 IPC the petitioner was sentenced to undergo simple imprisonment for a period of six months and to pay a fine of Rs.9000/-, in default to undergo simple imprisonment for a period of one week.

(c) for the offence under Section 506(2) IPC the petitioner was sentenced to undergo simple imprisonment for a period of one month and to pay a fine of Rs.500/-, in default to undergo simple imprisonment for a period of one week.

3. In appeal in Crl.A.No.16 of 2019 the XXIII Additional Sessions Judge, Allikulam, Chennai vide its order dated 19.08.2021, the appellate Court acquitted the petitioner for the offences under Section 326, 341 and 506(ii) IPC and convicted and sentenced the petitioner for the following offences :

(i) for the offence under Section 355 IPC the petitioner was sentenced to undergo simple imprisonment for a period of six months and to pay a fine of Rs.2,000/-, in default to undergo simple imprisonment for a period of one week

(ii) for the offence under Section 506(i) IPC the petitioner was sentenced to undergo simple imprisonment for a period of two weeks months and to pay a fine of Rs.500/-, in default to undergo simple imprisonment for a period of one week. Challenging the same, the present Revision has been filed.

3. This Court heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) and also perused the materials placed on record.

4. 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.



5. Considering the facts and circumstances of the case and also considering 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 on certain conditions. Accordingly, till the disposal of the Criminal Revision Case, the reliefs of suspension of sentence is granted on the following conditions:

(a) The petitioner/accused is ordered to be released on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned II Metropolitan Magistrate, Egmore, Chennai.

(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.

(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 revision petition 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.

6. This Criminal Miscellaneous Petition stand ordered accordingly.

-sd/-  
18/02/2022

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 XXIII ADDITIONAL SESSIONS  
COURT, ALLIKULAM, CHENNAI.

2 THE II METROPOLITAN  
MAGISTRATE, EGMORE, CHENNAI.

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

4 THE SUB INSPECTOR OF POLICE,  
G-5, SECRETARIAT COLONY POLICE STATION,  
CHENNAI 600 012.

5 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

+1 C.C. to M/S.M.A.MATHEW BERCHMANS Advocate on payment of  
necessary charges SR.NO. 2717

Order

in  
CRL MP.9860/2021

in  
CRL RC.592/2021

Date :18/02/2022

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RW 23/02/2022