



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Fifth day of February Two Thousand Sixteen

PRESENT

The Hon'ble Mr Justice V.S.RAVI

CRL MP (MD) Nos.1072 and 1073 of 2016

IN

CRL RC (MD) No.52 of 2016

ROBERT SINGH

..PETITIONER/PETITIONER/APPELLANT/ACCUSED NO.1
IN BOTH THE PETITIONS

Vs.

STATE REP.BY

THE INSPECTOR OF POLICE

SUSINTHIRAM POLICE STATION,

KANYAKUMARI DISTRICT.

(CRIME NO. 407 OF 2002)

..RESPONDENT/RESPONDENT/COMPLAINANT
IN BOTH THE PETITIONS

Prayer in Crl.MP (MD) No.1072 of 2016 :

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on petitioner by the Honourable Mahila Court, Nagercoil, Kanyakumari District by means of judgment dated 09.12.2015 made in Crl.Appeal No. 24 of 2006 modifying the judgment of the Learned Assistant Sessions Judge/ Chief Judicial Magistrate, Nagercoil dated 05.01.2006 made in S.C.No. 99 of 2004, pending disposal of the above CRL RC (MD) No.52 of 2016.

Prayer in Crl.MP (MD) No.1073 of 2016 :

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to exempt the petitioner from being surrendered before the Mahila Court, Nagercoil, Kanyakumari District in connection with sentence imposed on him by means of judgement dated 09.12.2015 made in Crl.Appeal No. 24 of 2006 modifying the sentence originally imposed by the Learned Assistant Sessions Judge/ Chief Judicial Magistrate, Nagercoil dated 05.01.2006 made in S.C.No.99 of 2004, pending disposal of the above CRL RC (MD) No.52 of 2016.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.S.PALANI VELAYUTHAM, Advocate for the petitioner in Both the Petitions and of MR.P.KANDASAMY, Government Advocate (Crl.Side) on behalf of the Respondents in Both the Petitions, the court made the following order:-

Crl.M.P. (MD) No.1072 of 2016 is filed by the
petitioner/appellant/A1 to suspend the sentence imposed on him in
C.A.No.24 of 2006 dated 09.12.2015 by the learned Mahila Judge,
Nagercoil, Kanyakumari District modifying the judgment dated



05.01.2006 made in S.C.No.99 of 2004 passed by the learned Assistant Sessions Judge/Chief Judicial Magistrate, Nagercoil.

2.It is specifically stated in the affidavit enclosed with the petition that the petitioner/appellant/A1 has fair change in succeeding the revision and there is prima facie case in his favour and during the period of trial, he has been granted bail and also, during the time of hearing of the appeal.

3.The petitioner has filed another application in CrI.M.P.(MD) No.1073 of 2016 to pass an order excepting the petitioner/appellant/A1 from being surrendered before the Mahila Court, Nagercoil in connection with the sentence imposed on him in C.A.No.24 of 2006 dated 09.12.2015 by the learned Mahila Judge, Nagercoil, Kanyakumari District modifying the judgment dated 05.01.2006 made in S.C.No.99 of 2004 passed by the learned Assistant Sessions Judge/Chief Judicial Magistrate, Nagercoil, pending disposal of the criminal revision.

4.It is specifically pointed out in the grounds of revision that P.Ws.2,3 and 4 are the relatives of P.W.1 and the lower Court also failed to appreciate the facts and circumstances as well as the materials of the prosecution, in the proper perspective and hence, the conviction and consequential sentence imposed on the petitioner by means of the lower appellate Court is erroneous and in view of that, the said judgment is liable to be revised.

5.It is further pointed out in the grounds of revision that the lower appellate Court has also failed to appreciate the evidence as well as the materials filed on behalf of the prosecution in accordance with law. Further, it is pointed out that serious error has been caused by the Courts below and there are so many discrepancies and lack of materials, for the alleged involvement in the commission of the occurrence, by the petitioner herein.

6.On a Perusal of the materials available on records, it is found that there are certain force in the grounds made in the grounds of revision. From the submissions made on behalf of the petitioner, this Court finds that there are substantial and arguable points in the present case. Further, it is also seen that if certain stringent conditions are imposed, there is no chance for the accused to abscond. Further, after hearing the main revision alone, the correct and proper finding in the main case can be given.

7.Further, it is seen that various points raised in the grounds of revision require an indepth/threadbare examination at the time of final hearing of the main revision and also on going through the various grounds raised in the grounds of revision at this stage, this Court, to prevent aberration of justice, suspends the substantial sentence of imprisonment alone pending disposal of the criminal revision with the following conditions:

i)the petitioner/Appellant/A1 shall be released on bail on his executing 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 Judicial Magistrate No.III, Nagercoil;



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ii) the petitioner shall appear before the said Court once in 15 days viz., first working day of the first week and first working day of the third week until further orders, failing which the said Court is directed to inform about the details of failure committed by the petitioner in complying with the said conditions, to the Registry of this Court, forthwith.

iii) the petitioner/Accused No.1 shall furnish his present full details of his residential address along with the copies of the family ration card/Aadhar Card/voter ID card issued by the Election Commission of India and also phone numbers(mobile/landline) if any to the said Court in the form of an affidavit, after serving an advance true copy of the same to the respondent police; and

iv) on receipt of the true copy of the said affidavit, the respondent police is directed to verify the veracity of the particulars given in the said affidavit and also liberty is granted to respondent to take appropriate follow up action, in accordance with law.

8. For the above mentioned facts and circumstances, Crl.M.P.(MD) No.1073 of 2016 is allowed and the petitioner/Appellant/A1 is exempted from being surrendered before the Mahila Court, Nagercoil in connection with the sentence imposed on him in C.A.No.24 of 2006 dated 09.12.2015 by the learned Mahila Judge, Nagercoil, Kanyakumari District modifying the judgment dated 05.01.2006 made in S.C.No.99 of 2004 passed by the learned Assistant Sessions Judge/Chief Judicial Magistrate, Nagercoil, pending disposal of the criminal revision.

sd/-

05/02/2016

/ TRUE COPY /

Sub-Assistant Registrar

TO

- 1 THE JUDICIAL MAGISTRATE NO.III, NAGERCOIL.
- 2 THE ASSISTANT SESSIONS JUDGE/ CHIEF JUDICIAL MAGISTRATE, KANYAKUMARI AT NAGERCOIL.
- 3 THE JUDGE, MAHILA COURT, NAGERCOIL, KANYAKUMARI DISTRICT.
- 4 -DO-THRO' THE PRINCIPAL SESSIONS JUDGE, KANAYAKUMARI AT NAGERCOIL.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 6 THE INSPECTOR OF POLICE SUSINTHIRAM POLICE STATION, KANYAKUMARI DISTRICT.

+2C.C. to M/S S.PALANI VELAYUTHAM Advocate SR.Nos.7494 AND 7495

akm/09.02.2016/ 3p-9c/jgb/dp/SAR-I