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

Thursday, the First day of December Two Thousand Sixteen
PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and

The Hon`ble Mrs.Justice J.NISHA BANU

CRL MP (MD) No.11799 of 2016

IN

CRL A(MD) No.326 of 2016

1 RAJARAJAN

2 K.S.VIMAL @ VIMAL KARTHICK ... PETITIONERS/APPELLANTS A1 & 4

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
CANTONMENT POLICE STATION,
TRICHY DISTRICT.
(CR.NO.1683 OF 2012)

... RESPONDENT/RESPONDENT

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 against the petitioners by the Learned Principal Sessions Judge, Trichy in S.C.No.220 of 2013 dated 24.08.2016 and release us on bail pending disposal of the above Criminal Appeal.

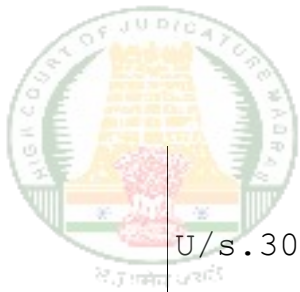
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.T.SENTHIL KUMAR, Advocate for the petitioner and of MR.R.RAMACHANDRAN, Additional Public Prosecutor, for the Respondent and the Court made the following order:-

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

The petitioners are arrayed as A.1 and A.4, vide impugned judgment dated 24.08.2016 in S.C.No.220 of 2013, on the file of the Principal Sessions Judge, Trichirappalli. A.1 and A.4 were convicted and sentenced as follows:

Accused No.1

Conviction	Sentence
U/s.294(b) I.P.C	To undergo simple imprisonment for 3 months and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for further period of 15 days



U/s.302 I.P.C.	To undergo imprisonment for life and to pay a fine of Rs.2,000/-, in default to undergo rigorous imprisonment for further period of two years
U/s.323 I.P.C.	To pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for three months

Accused No.4

Conviction	Sentence
U/s.302 r/w 34 I.P.C	To undergo imprisonment for life and to pay a fine of Rs.2,000/-, in default to undergo rigorous imprisonment for further period of two years
U/s.323 I.P.C.	To pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for three months

The above sentences were ordered to run concurrently.

2. The learned Counsel for the petitioners, on instructions, seeks permission of this Court to withdraw this petition insofar as the first petitioner/A.1 is concerned and he has also made an endorsement to that effect.

3. In view of the submission and endorsement made by the learned Counsel for the petitioner/A.1, this petition is dismissed as withdraw insofar as the petitioner/A.1 is concerned.

4. It is the submission of the learned Counsel appearing for the petitioner/A.2 that even as per the version of the prosecution, A.4 has pushed down P.W.1 and apart from that, there is no iota of evidence that the petitioner/A.4 had shared common intention with the other accused to commit the murder of Ajay Rooban and would further add that pendency of the trial, he was on bail and therefore, prays for suspension of substantive sentence of imprisonment.

5. Per contra, Mr.R.Ramachandran, learned Additional Public Prosecutor would submit that all the four accused had shared common intention and would state that the trial Court has rightly convicted the accused and prays for dismissal of this petition.

6. In response to the said submission, the learned Counsel appearing for the petitioner/A.4 would submit that A.2's substantive sentence of imprisonment was already suspended by this Court by order dated 19.10.2016 in CrI.M.P.(MD)No.8703 of 2016 in CrI.A.(MD)



No.335 of 2016 and as such, there may not be any impediment to allow this petition and the petitioner is also not having any bad antecedent.

7. This Court, taking into consideration the fact that even as per the version of the prosecution, the petitioner/A.4 is said to have been pushed down P.W.1 and consequently, sustained injury and that he was on bail through out the trial and not having any bad antecedent, is inclined to suspend the substantive sentence of imprisonment alone.

8. Accordingly, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner/A.4 alone is suspended and the petitioner/A.4 is directed to be enlarged on bail, on the following conditions:

The petitioner/A.4 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 Judicial Magistrate No.II, Trichirappalli and on further condition that the petitioner/A.4 shall report before the committal Court at 10.30a.m., on the first working day of every English Calendar Month, until further orders.

sd/-

01/12/2016

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE PRINCIPAL SESSIONS JUDGE, TRICHY.
 - 2 THE JUDICIAL MAGISTRATE NO.II, TRICHIRAPPALLI.
 - 3 -DO-THRO' THE CHIEF JUDICIAL MAGISTRATE, TRICHIRAPPALLI.
 - 4 THE ADDL.PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
 - 5 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
 - 6 THE INSPECTOR OF POLICE, CANTONMENT POLICE STATION, TRICHY DIST.
- +1. C.C. to M/S.T.SENTHIL KUMAR, Advocate SR.No.75030.

ORDER IN

CRL MP(MD) No.11799 of 2016

IN CRL A(MD) No.326 of 2016

Date : 01/12/2016

msm/ss2/sar1/01.12.16/p3/8c

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