



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

Tuesday, the Sixteenth day of February Two Thousand Sixteen
PRESENT

The Hon`ble Mr Justice V.S.RAVI

CRL MP(MD)Nos.1380 & 1381 of 2016

IN

CRL RC(MD)No.67 of 2016

1 JAISANKAR

2 P. RAJENDRAN

..PETITIONERS/REVISION PETITIONERS
IN BOTH THE PETITIONS

Vs.

STATE REP.BY THE SUB INSPECTOR OF POLICE
SUCHINDRUM POLICE STATION,
KANYAKUMARI DISTRICT.

(IN CRIME NO. 407/ 2002 RESPECTIVELY) ..RESPONDENT/RESPONDENT

IN BOTH THE PETITIONS

Petitions praying that in the circumstances stated therein and
in the petitions filed therewith the High Court will be pleased to
Prayer in Crl.MP(MD)No.1380/2016:

To suspend the sentence confirmed by the Mahila Court, Nagercoil by
its Judgment dated 09.12.2015 passed in Criminal Appeal No.24 of 2006
confirming the conviction and modified the sentence into one year
Rigorous Imprisonment U/s.436 of IPC and confirmed the fine amount of
Rs.500/- imposed on the 1st revision petitioner, confirmed the conviction
and modified the sentence into one year Rigorous imprisonment U/s.436
r/w.34 of IPC and also confirmed the fine amount of Rs.500/- imposed the
2nd revision petitioner and also ordered the set off period undergone
during the trial U/s.428 of Cr.PC. as against the judgment passed by the
learned Assistant Sessions Judge cum Chief Judicial Magistrate,
Kanyakumari in S.C.No.99/2004 dated 05.01.2006, convicting the 1st
revision petitioner U/s.436 of IPC and sentenced to undergo Rigorous
Imprisonment for 3 years and imposed a fine a Rs.500/- in default to
undergo simple Imprisonment for 2 months, and convicted the 2nd revision
petitioner U/s.436 of IPC r/w.34 of IPC and sentenced to undergo Rigorous
Imprisonment for 3 years and imposed a fine of Rs.500/- in default to
undergo Simple Imprisonment for 2 months besides ordering set off U/s.428
of Cr.PC for both revision petitioners pending disposal of this criminal
revision and release petitioner on bail.

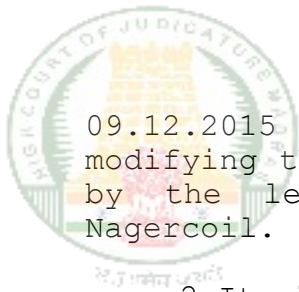
Prayer in CRL MP(MD). 1381/ 2016 :

To exempt the revision petitioners from surrendering before the
Lower Court in pursuance of the Judgment in Criminal Appeal No.24 of 2006
dated 09.12.2015 passed by the learned Mahila Court, Nagercoil, pending
disposal of the main Criminal Revision Petition.

Order : This petition coming on for orders upon perusing the petition
filed in support thereof and upon hearing the arguments of M/S AR.JEYA
RHUTHRAN, Advocate for the petitioners in both the petitioner and of
Mr.P.KANDASAMY, Government Advocate (Crl.Side) on behalf of the
Respondent in both the petitions, the court made the following order:-

<https://hcservices.ecourts.gov.in/hcservices/>

Crl.M.P.(MD)No.1380 of 2016 is filed by the petitioners/appellants/A3
and A4 to suspend the sentence imposed on them 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 petitioners/appellants/A3 and A4 have the fair chance of success in the revision and there is prima facie case in their favour and during the period of trial, they have been granted bail and also, during the time of hearing of the appeal, and they have not violated the conditions imposed by the court.

3.The petitioners have filed another application in Crl.M.P.(MD) No.1381 of 2016 to pass an order excepting the petitioners/appellants/A3 and A4 from surrendering before the lower Court in connection with the sentence imposed on them 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.1 to 3 are close relatives and also, interested witnesses 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 petitioners, by 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 petitioners herein.

6.It is further reported that already this Court has suspended the sentence imposed as against A1 in Crl.R.C.(MD) No.52 of 2016 by order dated 05.12.2016.

7.On a Perusal of the materials available on records, it is found that there are certain force in the points raised in the grounds of revision. From the submissions made on behalf of the petitioners, 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.

8.Further, as stated by the learned counsel for the petitioners/appellants/A3 and A4, this Court already suspended the sentence imposed against A1 in Crl.R.C.(MD) No.52 of 2016 by order dated 05.02.2016.

<https://hcservices.ecourts.gov.in/hcservices/>

9.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 petitioners/Appellants/A3 and A4 shall be released on bail on each of them executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for a likesum to the satisfaction of the Judicial Magistrate No.III, Nagercoil;

ii) the petitioners 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 petitioners in complying with the said conditions, to the Registry of this Court, forthwith.

iii) the petitioners/Accused Nos.3 and 4 shall furnish their present full details of their 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, CrI.M.P.(MD) No.1381 of 2016 is allowed and the petitioners/appellants/A3 and A4 are exempted from surrendering before the lower Court in connection with the sentence imposed on them 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/-

16/02/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

- 1 THE MAHILA JUDGE, NAGERCOIL, KANYAKUMARI DISTRICT.
- 2 THE ASSISTANT SESSIONS JUDGE/CHIEF JUDICIAL MAGISTRATE, NAGERCOIL.
- 3 THE JUDICIAL MAGISTRATE NO.III, NAGERCOIL, KANYAKUMARI DISTRICT.
- 4 THE ADDL.PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 5 THE SUB INSPECTOR OF POLICE, SUCHINDRUM POLICE STATION, KANYAKUMARI DISTRICT.

+3. C.C. to M/S P.Prabhakaran, Advocate SR.No.8975 & 8976

ORDER IN

CRL MP(MD) Nos.1380 & 1381 of 2016

IN CRL RC(MD) No.67 of 2016

Date :16/02/2016