



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

Friday, the Eighth day of January Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice P.R.SHIVAKUMAR
and
The Hon`ble Mr Justice V.S.RAVI

CRL MP (MD) No.145 of 2016
IN
CRL A (MD) No.372 of 2015

LAWRANCE

... PETITIONER/APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
KUMBAKONAM WEST POLICE STATION,
KUMBAKONAM,
THANJAVUR DISTRICT.
(CRIME NO. 148/2011)

... 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 in S.C.No.232 of 2011 on the file of the learned 1st Additional District and Sessions Judge (PCR), Thanjavur dated 27.02.2013, pending disposal of the above said CRL A (MD) No.372 OF 2015.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.K.M.KARUNAKARAN, Advocate for the petitioner and of MR.C.RAMESEH, Additional Public Prosecutor on behalf of the Respondents the court made the following order:-

(Order of the Court was made by **V.S.RAVI, J.**)

The petitioner is the sole accused in S.C.No.232 of 2011, on the file of learned First Additional District and Sessions Judge, [PCR], Thanjavur. By judgment dated 27.02.2013, the trial Court convicted him under Section 302 of the Indian Penal Code and sentenced him to undergo imprisonment for life and to pay a fine of Rs.500/- in default to undergo rigorous imprisonment for one year. Challenging the same, the petitioner has come up with Crl.A. (MD) .No.372 of 2015.

2. Pending appeal, he has come up with the present Miscellaneous Petition praying for suspension of substantive sentence of imprisonment.

<https://hcservices.ecourts.gov.in/hcservices/>
3. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent. We have also perused the records carefully.



4. In the present Miscellaneous Petition, the petitioner has stated that PW-5, who is a neighbour and also a seizure witness, has stated about the capability of the deceased that the deceased was not in a position to make a dying declaration. However, the Trial Court has relied upon such dying declaration and convicted the petitioner, which is not sustainable. It is further found that the petitioner is in jail from 27.02.2013 onwards. According to the learned counsel for the petitioner, the petitioner has got on bail throughout the trial and he has complied with the conditions at the time of granting bail by the Trial Court.

5. Considering the fact that the petitioner is in jail from 27.02.2013 onwards and also taking into account the fact that there is no likelihood of the appeal being heard in the near future, on account of the pendency of the cases, this Court is inclined to grant the suspension of substantive sentence alone and direct the release of the petitioner, on certain conditions.

6. Accordingly, this Miscellaneous Petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended on condition that the petitioner executes 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, Kumbakonam and on further condition that the petitioner shall report before the respondent police daily at 10.00 a.m., until further orders.

sd/-

08/01/2016

/ TRUE COPY /

Sub-Assistant Registrar

TO

- 1 THE JUDICIAL MAGISTRATE, KUMBAKONAM.
- 2 -DO- THRO' THE CHIEF JUDICIAL MAGISTRATE, THANJAVUR AT KUMBAKONAM.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 4 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
- 5 THE INSPECTOR OF POLICE
KUMBAKONAM WEST POLICE STATION, KUMBAKONAM, THANJAVUR DISTRICT.

+1. C.C. to M/S K.M.KARUNAKARAN Advocate SR.No.1558

akm/12.01.2016/ 2p- 7c/AAL/MPA/SAR-I

ORDER

IN

CRL MP (MD) No.145 of 2016

IN

CRL A (MD) No.372 of 2015

Date : 08/01/2016