



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

Wednesday, the Twenty Fourth day of February Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice V.S.RAVI

WEB COPY

CRL MP(MD) No.1691 of 2016

IN

CRL A(MD) No.58 of 2016

DEVADASAN ROBERT @ ROBERT

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY  
THE INSPECTOR OF POLICE  
SATHANKULAM POLICE STATION,  
THOOTHUKUDI DISTRICT.  
CR. NO.344/2013

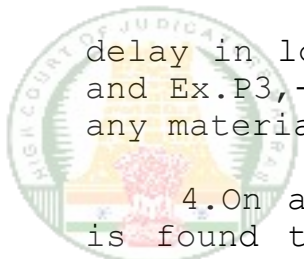
... RESPONDENT/ RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspending the sentence imposed upon him in S.C. No.245 of 2015 on the file of the Learned Sessions Judge Mahilar Neethimandram (Fast Track Mahila Court) thoothukudi , thoothukudi District dated 9.2.2016 pending disposal of the main 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 A.THIRUVADI KUMAR, Advocate for the petitioner and of MR.P.KANDASAMY, Government Advocate (Crl.Side), on behalf of the Respondents the court made the following order:-

This is an application filed by the petitioner/appellant/sole accused to suspend the sentence imposed on him in S.C.No.245 of 2015, dated 09.02.2016, by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi, Thoothukudi District.

2.It is specifically stated in the petition that the trial Court ought to have seen that the presence of P.W.2 to P.W.4, who happen to be intertested witnesses are very much doubtful, in view of the categorical admission of P.W.1 in the Chief examination that she has informed about the incident to others. Further, it is submitted that the entire prosecution case clinches upon the sole testimony of P.W.1, whose evidence is not cogent and trustworthy. It is further submitted that evidence of P.W.1 remains to be uncorroborated as the other witness namely, P.W.2 happens to be a chance witness. It is further submitted that the evidence of P.W.1 before the trial Court suffers from improvement on material aspects which makes the said evidence as unreliable one. Further, it is submitted that the medical evidence has not supported the case of the prosecution and the prosecution has also failed to explain the



delay in lodging the FIR. It is further submitted that except Ex.P2 and Ex.P3, -Accident Registers, the prosecution has failed to produce any material to prove the injury sustained by the victim.

4. On a perusal of the entire materials available on record, it is found that there are certain force in the grounds made in the memorandum of appeal and that the Petitioner has made out a prima facie case for grant of suspension of sentence. Further, in the grounds of appeal, the Petitioner/appellant has raised 7 grounds challenging the impugned judgment passed by the trial Court. Further, it is stated that the appellant has got the benefit of bail during the trial court proceedings and also complied with the conditions imposed by the trial Court.

5. On a careful consideration of the materials available on record, it is seen that there are arguable points in the present appeal. Further, when the appellate Court finds that due to practical reasons, appeal cannot be disposed of expeditiously, the appellate Court must bestow special concern in the matter of suspending the sentence, as prayed for in the present petition, so as to make the appeal right, meaningful and effective. Otherwise, the very valuable right of appeal would be an exercise in futility by efflux of time.

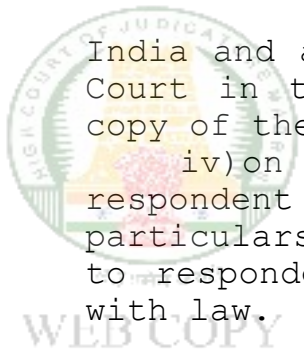
6. From the submissions made on behalf of the petitioner/Appellant and in view of the various grounds raised in the memorandum of criminal appeal, this Court finds that there are substantial and arguable points in the present case. Further, it is also seen that if certain stringent conditions are imposed, there is no chance for the accused to abscond. Further, after hearing the main appeal 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 appeal require an in-depth/threadbare examination at the time of final hearing of the main appeal and also on going through the various grounds raised in the memorandum of criminal appeal, at this stage, this Court, to prevent aberration of justice, suspends the substantial sentence of imprisonment alone pending disposal of the above criminal appeal with the following conditions:

i) the petitioner/Appellant/sole accused 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 learned Judicial Magistrate, Sathankulam;

ii) the petitioner/Appellant shall appear before the said Court once in a month viz., first working day of every English Calendar month, until further orders, failing which the said Court is directed to inform about the details of failure committed by the petitioner/Appellant in complying with the said conditions, to the Registry of this Court, forthwith.

iii) the petitioner/Appellant shall furnish the present full details of his residential address along with family ration card/Aadhar Card/voter ID card issued by the Election Commission of



India and also phone numbers(mobile/land-line), 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.

sd/-  
24/02/2016

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE,  
SATHANKULAM
- 2 THE CHIEF JUDICIAL MAGISTRATE  
THOOTHUKUDI
- 3 THE SESSIONS JUDGE,  
MAHALIR NEETHIMANDRAM (FAST TRACK MAHILA COURT), THOOTHUKUDI,  
THOOTHUKUDI DISTRICT.
- 4 THE INSPECTOR OF POLICE  
SATHANKULAM POLICE STATION, THOOTHUKUDI DISTRICT.
- 5 THE ADDL. PUBLIC PROSECUTOR  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S A. THIRUVADI KUMAR Advocate SR.No.10584

ORDER  
IN  
CRL MP (MD) No.1691 of 2016  
IN  
CRL A (MD) No.58 of 2016  
Date : 24/02/2016

RG.SK-SKN/SAR-I 26.02.2016 3P/7C