



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

Wednesday, the Second day of March Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice V.S.RAVI

CRL MP(MD) Nos.1904 and 1905 of 2016

IN

CRL RC(MD) No.115 of 2016

PANIMAYAM

... PETITIONER/REVISION PETITIONER
IN BOTH THE PETITIONS

Vs

THE STATE REP BY
THE SUB INSPECTOR OF POLICE
RADHAPURAM POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.83/2010)

... 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

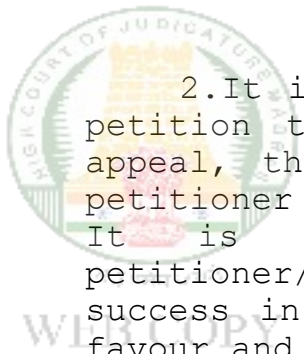
1) suspend the sentence imposed by the Learned IV Additional District and Sessions Judge, Tirunelveli made in Crl.A.No. 9 of 2014 dated 10.02.2016 confirming the Judgment passed by the Learned Judicial Magistrate, Vallioor made in C.C.No. 294 of 2010 dated 10.12.2013 (Crl.MP(MD)No.1904/2016 in Crl.RC(MD)No.115/2016)

2) exempt the petitioner from surrendering before the trial Court pursuant to the confirmation of conviction in Crl.A.No.9 of 2014 on the file of the IVth Additional District and Sessions Judge, Tirunelveli by Judgment dated 10/02/2016, which has confirmed the conviction in C.C.No.294 of 2010 on the file of learned Judicial Magistrate, Tirunelveli by judgment dated 18/12/2013 (Crl.MP(MD) No.1905/2016 in Crl.RC(MD)No.115/2016)

pending disposal of this Crl.RC(MD)No.115 of 2016.

Order : These Petitions coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.M.MALAVIYA, Advocate for the petitioner and of M/S.P.KANDASAMY, Government Advocate (Crl.Side) on behalf of the Respondent in both the Petitions the Court made the following order:-

Crl.M.P. (MD) No.1904 of 2016 is filed by the petitioner/revision petitioner/sole accused to suspend the sentence imposed on him in C.A.No.9 of 2014 dated 10.02.2016 by the learned IV Additional District and Sessions Judge, Tirunelveli, confirming the judgment dated 18.12.2013 made in C.C.No.294 of 2010 passed by the learned Judicial Magistrate, Valliyoer, pending disposal of the revision.



2.It is specifically stated in the affidavit enclosed with the petition that during the trial and also during the pendency of appeal, the petitioner has got the benefit of bail and also the petitioner has appeared before the Court concerned without any fail. It is further submitted in the affidavit that the petitioner/revision petitioner/Accused has the fair chance of success in the revision and there is the prima facie case in his favour and due to his family circumstances and his livelihood, he is not in a position to surrender before the Court below.

3.The petitioner has filed another application in CrI.M.P.(MD) No.1905 of 2016 to pass an order for exempting the petitioner/revision petitioner/Accused from surrendering before the lower Court in connection with the sentence imposed on him in C.A.No.9 of 2014 dated 10.02.2016 by the learned IV Additional District and Sessions Judge, Tirunelveli, confirming the judgment dated 18.12.2013 made in C.C.No.294 of 2010 passed by the learned Judicial Magistrate, Valliyoor, pending disposal of the revision.

4.It is specifically pointed out in the grounds of revision that there is a clear contradiction between the statement of P.W.1 and 2 and, P.W.1 states that students and teachers have not witnessed the incident and P.W.2 states that they have witnessed the incident. Further, it is stated that both the Courts have below erroneously failed to consider the evidences of P.Ws.6 and 7 regarding, no such occurrence, held at the campus of the school.

5.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 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.

6.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 sentence pending disposal of the criminal revision with the following conditions:

i)the petitioner/revision petitioner/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 for a likesum to the satisfaction of the learned Judicial Magistrate, Valliyoor.

ii)the petitioner/revision petitioner/Accused shall appear before the said Court once in a month viz., first working day of



every month 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/revision petitioner/Accused 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; and

iv) on receipt of the true copy of the said affidavit, the respondent 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.

7. For the above mentioned facts and circumstances, CrI.M.P.(MD) No.1905 of 2016 is allowed and the petitioner/revision petitioner/Accused is exempted from surrendering before the lower Court in connection with the sentence imposed on him in C.A.No.9 of 2014 dated 10.02.2016 by the learned IV Additional District and Sessions Judge, Tirunelveli, confirming the judgment dated 18.12.2013 made in C.C.No.294 of 2010 passed by the learned Judicial Magistrate, Valliyoor, pending disposal of the revision.

sd/-

02/03/2016

/ TRUE COPY /

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

TO

1. THE IVTH ADDITIONAL DISTRICT AND SESSIONS JUDGE
TIRUNELVELI
2. DO THROUGH THE PRINCIPAL SESSIONS JUDGE, TIRUNELVELI
3. THE JUDICIAL MAGISTRATE, VALLIYOOR
4. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT
5. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
6. THE SUB INSPECTOR OF POLICE
RADHAPURAM POLICE STATION, TIRUNELVELI DISTRICT.

+2. C.Cs. to M/S M.MALAVIYA Advocate SR.Nos.11873 and 11874

Arul

RL/9C/SK/SKN/SARI/7/3/2016

ORDER

IN

CRL MP(MD) Nos.1904 and 1905
of 2016

IN

CRL RC(MD) No.115 of 2016

Date : 02/03/2016