



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

Monday, the Fourteenth day of March Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice V.S.RAVI

CRL MP(MD) No.2221 of 2016

IN

CRL A(MD) No.87 of 2016

ARUMUGAM

... PETITIONER/APPELLANT/ACCUSED NO.3

Vs

STATE REP.BY

THE DEPUTY SUPERINTENDENT OF POLICE,

PERUNKUDI POLICE STATION, MADURAI DISTRICT.

CR. NO.173/2010

... RESPONDENT/RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to pass an order Suspending the sentence imposed on me by the Honourable III Additional District Judge (PCR), Madurai dated 10.02.2016 made in Special S.C.No.29 of 2013 pending disposal of the above appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.B.JEYAKUMAR, Advocate for the petitioner and of Mr.P.Kandasamy, Government Advocate (Crl.side) on behalf of the Respondent, the court made the following order:-

This is an application filed by the petitioner/Appellant/A3 to suspend the sentence imposed on him dated 10.02.2016 in Special S.C.No.29 of 2013 passed by the learned III Additional District and Sessions Judge (PCR), Madurai, pending disposal of the criminal appeal.

2.In the affidavit filed by the petitioner enclosed with the petition, it is clearly stated that the fine amount has been paid by the petitioner/appellant/A3 and it is also reported that the sentence has been suspended by the trial Court till 10.03.2016 and during the trial proceedings, the petitioner/Appellant/A3 has enjoyed the benefit of the bail and also, the appellant has regularly complied with the conditions, imposed by the Court below.

3.It is clearly stated in the affidavit that there is the prima facie case in favour of the petitioner and there are various infirmities and illegalities in the judgment of the Court below. Further, it is stated that the present case has been foisted against the petitioner due to ulterior motive and the existence of Ex.P1 F.I.R. is highly doubtful and the involvement of the appellant has not been established by the prosecution beyond reasonable doubts.

4.Further, it is pointed in the grounds of appeal that evidence of P.Ws.6 and 7 are not supporting the case of prosecution, who are the ~~incompetent~~ witnesses and therefore, the place of occurrence is highly doubtful and the scene of occurrence as per the prosecution witness is also suspicious.



5.Further, there are contradictions and inconsistencies in the evidences of P.Ws.1 to 5 with regard to the place of complaint drawn, manner of occurrence and recording of statements and the nature of the complaint.

6.On a perusal of the entire records, this Court is, prima facie satisfied that there are reasonable grounds of believing that the petitioner/appellant/A3 is not guilty of such offence and that he is not likely to commit any offence while on bail, with certain conditions .

7.Considering 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, 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.

8.Further, it is also seen that if certain stringent conditions are imposed, there is no chance for the petitioner/appellant/A3 to abscond. Further, after hearing the main appeal alone, the correct and proper finding in the main case can be given.

9.Further, it is seen that various points raised in the grounds of appeal require an indepth/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/A3 shall be released on bail 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 No.VI, Madurai;

ii)the petitioner/appellant/A3 shall appear before the said Court once in a month viz., on the first working day of every English Calender 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/Appellant/A3 shall furnish his present full details of his residential addresses 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.

sd/-

14/03/2016

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE NO.VI, MADURAI

2 -do-thro THE CHIEF JUDICIAL MAGISTRATE, MADURAI

3 THE DEPUTY SUPERINTENDENT OF POLICE,
PERUNKUDI POLICE STATION, MADURAI DISTRICT.

4 THE III ADDITIONAL DISTRICT JUDGE (PCR) MADURAI

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.B.JEYAKUMAR Advocate SR.No.14169

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ORDER
IN
CRL MP(MD) No.2221 of 2016
IN
CRL A(MD) No.87 of 2016
Date :14/03/2016