



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

Thursday, the Twenty First day of July Two Thousand Sixteen
PRESENT

The Hon`ble Dr.Justice P.DEVADASS

CRL MP (MD) No.2371 of 2016

IN

CRL RC (MD) No.162 of 2016

WEB COPY

SATHEESH

... PETITIONER/PETITIONER

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
VADASERY POLICE STATION,
KANYAKUMARI DISTRICT.

... 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 dated 23.7.2009 in SC. No.135 of 2005 the file of Assistant Sessions Judge cum Chief Judicial Magistrate, Nagercoil as confirmed by the judgement dated 6.2.2016 in C.A. No.35 of 2009 on the file of Mahalir Fast Track Court (Sessions Judge) Nagercoil pending disposal of the above Criminal Revision petition.

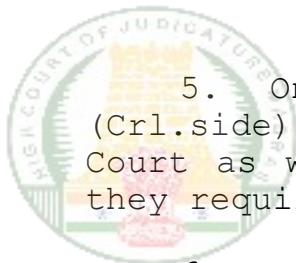
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S K.SURESHKUMAR, Advocate for the petitioner and of MRS.S.PRABHA, Government Advocate (Crl.side0 on behalf of the Respondent the court made the following order:-

The revision petitioner/A1 challenges the conviction and sentence recorded by the trial Court in S.C.No.135 of 2005 (Assistant Sessions Judge / Chief Judicial Magistrate, Nagercoil) as well as the appellate Court (Additional Sessions Judge, Mahila Court, Nagercoil in C.A.No.35 of 2009).

2. The trial Court convicted him under Section 326 I.P.C., and sentenced him to undergo three years rigorous imprisonment and fined him Rs.1,000/-, i/d three months rigorous imprisonment.

3. The learned Additional Sessions Judge, Mahalir Fast Track Court, Nagercoil confirmed the conviction and sentence and dismissed his Criminal Appeal in C.A.No.35 of 2009.

4. The learned counsel for the petitioner contended that there are number of contradictions in the evidence of P.Ws.1 to 3. There is delay in lodging the F.I.R. The prosecution held back certain vital witnesses in this case. There is no acceptable evidence and as to the weapon of offence alleged to have been used in the commission of the offence. The finding of the Courts below suffers from illegality and propriety. There is prima facie case in favour of the petitioner. Petitioner will not abscond.



5. On the other hand, the learned Government Advocate (Crl.side) would submit that the conviction recorded by the trial Court as well as by the appellate Court are perfectly correct and they require no interference.

6. In the facts and circumstances, perusing the impugned judgments and the materials on record, I am of the view that certain eminently arguable points are involved in this Criminal Revision. They are required to be examined in detail at the main criminal revision. It will take some time for the disposal of this Criminal revision. I see prima facie case. I am inclined to grant revision bail to the petitioner.

7. In view of the above, ordered as under:

(1) Revision bail granted.

(2) Sentence of imprisonment awarded by the learned Assistant Sessions Judge / Chief Judicial Magistrate, Nagercoil in S.C.No.135 of 2005 as confirmed by the learned Additional Sessions Judge (Mahalir Fast Track Court), Nagercoil in C.A.No.35 of 2009 alone is suspended.

(3) There shall be two sureties, they and the petitioner shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) each to the satisfaction of the learned Judicial Magistrate No.II, Nagercoil, Kanyakumari District.

(4) The petitioner shall appear before the Trial Court on the first working day of every month at 10.30 a.m. until further orders

sd/-

21/07/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

- 1 THE I ADDITIONAL DISTRICT SESSIONS JUDGE, TUTICORIN.
- 2 THE ASSISTANT SESSIONS JUDGE CUM CHIEF JUDICIAL MAGISTRATE, NAGERCOIL.
- 3 THE MAHALIR FAST TRACK COURT (SESSIONS JUDGE), NAGERCOIL.
- 4 THE JUDICIAL MAGISTRATE NO.II, NAGERCOIL.
- 5 THE INSPECTOR OF POLICE, VADASERY POLICE STATION, KANYAKUMARI DISTRICT.
- 6 THE GOVERNMENT ADVOCATE (CRL.SIDE)
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP (MD) No.2371 of 2016

IN

CRL RC (MD) No.162 of 2016

Date : 21/07/2016

akv