



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

Tuesday, the Twenty Ninth day of March Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice V.S.RAVI

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CRL MP(MD) No.2718 of 2016

IN

CRL RC(MD) No.197 of 2016

V. SENTHIL KUMAR

... PETITIONER/ PETITIONER

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
VELAYUTHAMPALAYAM POLICE STATION,
KARUR DISTRICT,
CR NO. 401 OF 2007.

... 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 passed in C.A. No.31 of 2012 on the file of the Session Judge FTC Mahilar Karur by his judgement dated 28.12.2015 modified the judgement passed in C.C. No.29 of 2008 dated 05.06.2012 on the file of the Learned Judicial Magistrate No.2, Karur, Karur District pending disposal of the 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.P.S.PALANIVEL RAJAN, 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/revision petitioner/sole accused to suspend the sentence imposed on him in C.A.No.31 of 2012 dated 28.12.2015 by the learned Sessions Judge, FTC Mahalir, Karur, modifying the judgment dated 05.06.2012 made in C.C.No.29 of 2008 by the learned Judicial Magistrate No.2, Karur, Karur District, pending disposal of the revision.

2.It is specifically stated in the affidavit enclosed with the petitioner that the petitioner has been convicted for the offence under Section 304(A) of I.P.C. and sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for two months. It is also stated that the said judgment has been modified by the learned Sessions Judge, FTC Mahalir, Karur and the sentence has been modified to undergo six months rigorous imprisonment and the fine amount is confirmed. It is reported that fine amount has already been paid.



3.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 prima facie case in his favour. It is specifically pointed out in the affidavit that the petitioner has been convicted based on the evidences of the interested witnesses viz., P.Ws.1 to 6 and also P.Ws.1 to 3 could not be the eye witnesses and the prosecution has miserably suppressed the origin and genesis of the occurrence. It is further stated that the prosecution agency has not proved the nature of the road and the physical features as appended in the observation mahazar, and the rough sketch is contradictory to the evidence of the prosecution.

4.It is stated in the grounds of revision that both the courts below have failed to consider and appreciate that the prosecution has not proved the charge against the petitioner, beyond reasonable doubts, and also, the Courts below have failed to consider the materials in a proper perspective.

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 No.2, Karur;

ii)the 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/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



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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/-

29/03/2016

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.II
KARUR.
- 2 DO THRO' THE CHIEF JUDICIAL MAGISTRATE
KARUR.
- 3 THE SESSIONS JUDGE AND FAST TRACK COURT FOR MAHALIR KARUR.
- 4 THE INSPECTOR OF POLICE
VELAYUTHAMPALAYAM POLICE STATION,
KARUR DISTRICT.
- 5 THE ADDL. PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S K.P.S.PALANIVEL RAJAN Advocate SR.No.17542

ORDER

IN

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IN

CRL RC (MD) No.197 of 2016

Date : 29/03/2016

RG.GSV-PM/SAR-I 31.03.2016 3P/7C