



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

Monday, the Fourth day of April Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice V.S.RAVI

CRL MP(MD) No.2731 of 2016

IN

CRL A(MD) No.102 of 2016

SUBRAMANIAN

... PETITIONER/APPELLANT

Vs

STATE

THE INSPECTOR OF POLICE

S.V.MANGALAM POLICE STATION,

SIVAGANGAI DISTRICT.

CR. NO.38/2004

... 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 imposed in S.C. No.87/2008 dated 14.3.2016 on the file of the District Fast Track Mahila Court, sivagangai and enlarge the petitioner on bail pending disposal of the above 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 V.KANNAN, 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/A4 to suspend the sentence imposed on him in S.C.No.87 of 2008, dated 14.03.2016, on the file of the District Fast Track Mahila Court, Sivagangai.

2.It is stated in the affidavit filed by the Petitioner/Appellant/A4 that the Petitioner/Appellant/A4 has been convicted by the Court of Fast Track Mahila Court, Sivagangai District under Sections 147 and 365(i) IPC and sentenced to undergo one month rigorous imprisonment under Section 147 of IPC and one year rigorous imprisonment and to pay a fine amount of Rs.2,000/-, in default of payment of said fine amount, further directed to undergo one month rigorous imprisonment under Section 365(i) of IPC.

3.It is specifically stated in the grounds of appeal that the prosecution has deliberately failed to produce the reliable and credible evidence of persons as the alleged occurrence said to have taken place in the morning time in the main street. Further, it is stated in the grounds of appeal that the Court below erred to see, that only flimsy motive, has been put-forth by the prosecution. Further, it is stated that the Trial Court ought to have considered the acquittal of the co-accused by the Lower Courts. It is further stated in the grounds of appeal that as against the judgement passed by the Chief Judicial Magistrate/Assistant Sessions Judge, Sivagangai, A3 and A6 have filed an appeal before the Court of Sessions Judge, Sivagangai in Crl.A.No.62 of 2008 and after hearing both sides, the sentence imposed by the lower Court has been modified by the learned Sessions Judge.



4.It is reported before this Court that the fine amount of Rs.2,000/- has already been paid vide Receipt No.1385017, dated 14.03.2016 to the credit of S.C.No.87 of 2008, on the file of Fast Track Mahila Court, Sivagangai.

5.It is pointed out in the affidavit filed by the Petitioner that he is the only bread-winner of the family and in order to prove the permanent residence, the Petitioner/Appellant/A4 has produced Aadhar Card, and also ID Card issued by the Election Commission of India, in the name of the Petitioner/Appellant/A4 herein.

6.On a perusal of the entire materials available on record, it is seen that there are certain force in the grounds made in the memorandum of appeal and that the Petitioner/Appellant/A4 has made out a prima facie case to grant suspension of sentence as sought for. Further, in the grounds of appeal, the Petitioner/Appellant/A4 has raised 15 grounds challenging the impugned judgment passed by the appellate Court. Further, it is stated that the Petitioner/Appellant/A4 has got the benefit of bail during the trial court proceedings and also complied with the conditions imposed by the trial Court.

7.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.

8.From the submissions made on behalf of the Petitioner/Appellant/A4 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.

9.Further, it is seen that the various points raised in the grounds of appeal require an in-depth/thread-bare 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/A4 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 like-sum to the satisfaction of the learned Judge, District Fast Mahila Court, Sivagangai;

ii)the Petitioner/Appellant/A4 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/A4 in complying with the said conditions, to the Registry of this Court, forthwith.

iii)the Petitioner/Appellant/A4 shall furnish the present full residential address along with copies of 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/-
04/04/2016

/ TRUE COPY /

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

TO

- 1 THE JUDGE, DISTRICT FAST TRACK MAHILA COURT, SIVAGANGAI
- 2 THE INSPECTOR OF POLICE
S.V.MANGALAM POLICE STATION, SIVAGANGAI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S V.KANNAN Advocate SR.No.18808

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ORDER
IN
CRL MP(MD) No.2731 of 2016
IN
CRL A(MD) No.102 of 2016
Date :04/04/2016