



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

Friday, the Twenty Second day of April Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice V.S.RAVI

CRL MP (MD) No.2886 of 2016

IN

CRL A (MD) No.106 of 2016

S.MURUGAN

... PETITIONER/APPELLANT

Vs

THE STATE REP. BY ITS
THE INSPECTOR OF POLICE
KAYATHAR POLICE STATION,
TUTICORIN DISTRICT.
CRIME NO.339/2013

... 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 of the petitioner imposed in S.C.No.150 of 2014 on the file of the Learned Sessions Judge Mahilar Neethimandram Fast Track Mahila Court Tuticorin dated 19.1.2016 and enlarged the petitioner on bail pending Criminal Appeal on the file of this Honourable Court.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S M.JEGADEESHAPANDIAN, 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 a petition filed by the petitioner/Appellant/Accused to suspend the sentence imposed on him in S.C.No.150 of 2014 on the file of the learned Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Thoothukudi, dated 19.01.2016 and enlarge the petitioner on bail pending criminal appeal.

2.It is clearly stated in the affidavit enclosed with the petition by the son of the petitioner that the petitioner has been convicted for the offence under Section 450 of I.P.C. and sentenced to undergo rigorous imprisonment for two years and directed to pay a fine of Rs.1,000/- in default to undergo rigorous imprisonment for one month and also convicted for the offence under Section 376 read with 511 of I.P.C. and sentenced to undergo rigorous imprisonment for five years and directed to pay a fine of Rs.2,000/- in default to undergo rigorous imprisonment for six months. It is also reported that the fine amount has already been paid by the petitioner vide receipt No.A105452 dated 20.01.2016 and the same has



been enclosed. Further, it is stated in the affidavit that the petitioner is having the fair chance of acquittal.

3. Further, it is stated in the grounds of appeal that the alleged victim viz., Madathi has not been examined before the trial Court as she has already expired long before the commencement of trial. Further, it is stated that the said Madathi is only the witness to speak about the alleged commission of offence and P.Ws.1 and 2 are not true eye witnesses to the occurrence and their evidences, are in the nature of hearsay evidences and hence, the prosecution has totally failed to establish their case on any aspects of the case, and the investigating officer has not examined any Doctor from the Jabanathan Hospital as claimed by P.W.1. Further, P.W.1 has deposed that she does not remember, as to the details regarding signing her signature on the complaint and hence, Ex.P1 is a doubtful record and it cannot be acted upon and the genesis of the case, itself, is doubtful and the conviction rendered by the trial Court becomes unsustainable one. It is further stated that the petitioner is having permanent residence and in order to prove the permanent residence of the petitioner/appellant, he has produced, the copy of Aadhar card issued by the Competent Authorities.

4. Considering the submissions made on behalf of the petitioner/Appellant 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, 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.

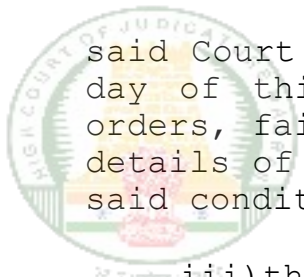
5. Further, it is also seen that if certain stringent conditions are imposed, there is no chance for the accused to abscond. Further, after hearing the main appeal alone, the correct and proper finding in the main case can be given.

6. 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/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 Sessions Judge, Mahalir Neethinmandram (Fast Track Mahila Court), Thoothukudi;

<https://hcservices.ecourts.gov.in/hcservices/>

ii) the petitioner/appellant/Accused shall appear before the



said Court on the first working day of first week and first working day of third week 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/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/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/-

22/04/2016

/ TRUE COPY /

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

TO

- 1 THE SESSIONS JUDGE, MAHALIR NEETHIMANRAM (FAST TRACK COURT), TUTICORIN.
- 2 THE JUDICIAL MAGISTRATE NO.II, KOVILPATTI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TUTICORIN DISTRICT.
- 4 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
- 5 THE INSPECTOR OF POLICE, KAYATHAR POLICE STATION, TUTICORIN DISTRICT.
- 6 THE ADDITIONAL PUBLIC PROSECTUOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S M.JEGADEESHAPANDIAN Advocate SR.No.22715

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CSL/NGM-SS/AR-I/27.04.2016 : 3P/8C

ORDER

IN

CRL MP (MD) No.2886 of 2016

IN

CRL A (MD) No.106 of 2016

Date : 22/04/2016