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

Wednesday, the Twentieth day of April Two Thousand Sixteen
PRESENT

The Hon`ble Mr.Justice V.S.RAVI

CRL MP(MD) No.3217 of 2016

IN

CRL A(MD) No.123 of 2016

MUTHUPANDI

... PETITIONER/APPELLANT

Vs

STATE:THE INSPECTOR OF POLICE
B-14, SELLUR POLICE STATION,
MADURAI CITY.
CR.NO. 215 OF 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 on the petitioner by the Judgment in S.C.No. 64 of 2010 dated 18.01.2016 on the file of the III Additional District and Sessions Judge, (PCR) Madurai and grant bail to the petitioner pending disposal of the appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S T.A EBENEZER, Advocate for the petitioner and of MR.P.KANDASAMY, Govt.Adovcate(Crl.Side) on behalf of the Respondents the court made the following order:-

This is an application filed by the petitioner/Appellant/Sole Accused to suspend the sentence imposed on the Petitioner by judgment made in Special S.C.No.64 of 2010, dated 18.1.2016, on the file of the learned III Additional District and Sessions Judge(PCR), Madurai and to grant bail to the Petitioner, pending disposal of the above appeal.

2.It is stated in the affidavit enclosed along with the Petition that the Petitioner/Appellant/Sole Accused has been convicted for the offence under Section 324 of IPC and sentenced to undergo one year rigorous imprisonment and to pay a fine amount of Rs.1000/-, in default, further to undergo three months simple imprisonment by judgement, dated 18.1.2016, made in Special S.C.NO.64 of 2010, passed by the learned III Additional District and Sessions Judge(PCR), Madurai.

3.Further, it is stated in the affidavit that the Petitioner/Appellant/Sole Accused is in Central Prison, Madurai from 16.3.2016 onwards and the fine amount of Rs.1000/- has been paid vide Receipt No.A628047, dated 18.1.2016 to the credit of Special S.C.No.64 of 2010, on the file of the learned III Additional District Judge(PCR), Madurai.Further, it is pointed out that all the material witnesses, have been treated as hostile witnesses.

4.Further, it is stated in the grounds of appeal that it is well-settled law that whenever the evidence of sole witness is not believed, in one aspect, then it cannot be believed in other aspects. Further, the lower Court has come to the conclusion relying only, on the evidence of P.W.1, without any supporting evidence and even witnesses of P.W.2



and P.W.3 have been treated as the hostile witnesses and also, the reasons given by the Court below for convicting the Petitioner/Appellant/Sole Accused are not correct.

5. On a perusal of the entire materials available on record, it is found that there are certain force in the grounds made in the memorandum of appeal and that the Petitioner/Appellant/Sole Accused has made out a *prima facie* case to grant suspension of sentence as sought for. Further, in the grounds of appeal, the Petitioner/Appellant/Sole Accused has raised 13 grounds challenging the impugned judgment passed by the appellate Court.

6. 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.

7. From the submissions made on behalf of the Petitioner/Appellant/Sole Accused 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.

8. 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/Sole 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 like-sum to the satisfaction of the learned Judicial Magistrate No.II, Madurai;

ii) the Petitioner/Appellant/Sole Accused shall appear before the said Court once in a month viz., first working day of every 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/Sole Accused in complying with the said conditions, to the Registry of this Court, forthwith.

iii) the Petitioner/Appellant/Sole Accused shall furnish the present full details of his residential address along with copies of the 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/-

20/04/2016

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

TO

1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE (PCR), MADURAI.

2 DO-THRO' THE PRINCIPAL SESSIONS JUDGE, MADURAI.

3 THE JUDICIAL MAGISTRATE NO.II, MADURAI.

4 DO-THRO' THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.

5 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

6 THE INSPECTOR OF POLICE
B-14, SELLUR POLICE STATION, MADURAI CITY.

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

+1. C.C. to M/S T.A EBENEZER Advocate SR.No.21946

ORDER

IN

CRL MP (MD) No.3217 of 2016

IN

CRL A (MD) No.123 of 2016

Date : 20/04/2016

PA/SK-SKN/ARI/21.04.2016/3P/9C