



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.3311 of 2016
in
CRL.A(MD)No. 128 of 2016

ANANDAKUMAR

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
KALUGUMALAI POLICE STATION,
THOOTHUKUDI DISTRICT.

... RESPONDENT/RESPONDENT.

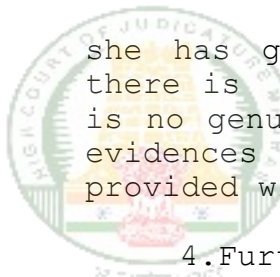
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the Sentence passed in Judgment dated 11.03.2016 made in S.C.No.210 of 2010 on the file the Hon'ble Sessions Judge (Fast Track Mahila Court), Thoothukudi convicted the petitioner under Section 417 of IPC and sentenced him to undergo one year Rigorous Imprisonment 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.SASIKUMAR, 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/A1 to suspend the execution of sentence passed in the Judgement made in S.C.No.210 of 2010, dated 11.3.2016, on the file of learned Sessions Judge(Fast Track Mahila Court),Thoothukudi convicting the Petitioner/Appellant/A1 under Section 417 of IPC and sentenced him to undergo one year rigorous imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo Rigorous Imprisonment for two months, pending disposal of the above Criminal Appeal.

2.It is stated in the affidavit enclosed along with the Petition that the Petitioner/Appellant/A1 is having the fair chances of success in the main appeal. Further, it is pointed out that there are so many contradictions between the evidences of vital witnesses and interested witnesses and no independent witnesses available in the place of occurrence have been examined to prove the said offence. Further, it is pointed out that when there is an acquittal recorded for the offence under Section 376 IPC, there cannot be any separate conviction under Section 417 of IPC.

<https://hcservices.courts.gov.in/hcservices> it is pointed out in the grounds of appeal that P.W1/victim has clearly deposed in her evidence that more than one year, she has got the love affair with the Petitioner/Appellant/A1 and



she has given complaint on 02.01.2010 as against the Petitioner, and there is no cogent and un-interrupted evidence available. Further, there is no genuineness in the evidence of the prosecution witnesses and their evidences are unbelievable. Hence, the Petitioner/Appellant/A1 may be provided with the benefit of doubt.

4. Further, it is reported that the Petitioner/Appellant/A1 has paid the fine amount of Rs.3,000/- on 11.03.2016 vide receipt No.A105461 to the credit of S.C.No.210 of 2010, on the file of the learned Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Thoothukudi.

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/A1 has made out a prima facie case to grant suspension of sentence as sought for. Further, in the grounds of appeal, the Petitioner/Appellant/A1 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/A1 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/A1 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 Sessions Judge, Fast Track Mahila Court, Thoothukudi;

ii) the Petitioner/Appellant/A1 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/A1 in complying with the said conditions, to the Registry of this Court, forthwith.

iii) the Petitioner/Appellant/A1 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 his contact details (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

/ TRUE COPY /

WEB COPY

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

TO

1 THE SESSIONS JUDGE, (FAST TRACK MAHILA COURT)
THOOTHUKUDI.

2 THE ADDL. PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

3 THE INSPECTOR OF POLICE
KALUGUMALAI POLICE STATION,
THOOTHUKUDI DISTRICT.

+1. C.C. to M/S A.Mohan, Advocate SR.No.21882

ORDER

IN

CRL MP (MD) No.3311 of 2016
in

CRL.A (MD) No. 128 of 2016

Date : 20/04/2016

AM/NGM.SS/SAR-I/21.04.2016/3P/5C