



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

Thursday, the Twenty First day of April Two Thousand Sixteen
PRESENT

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

CRL MP (MD) No.3419 of 2016 IN CRL RC(MD) No.258 of 2016

ESAKKIMUTHU

... PETITIONER/REVISION PETITIONER/ACCUSED

Vs

STATE REP.BY

THE INSPECTOR OF POLICE

PASUPATHIPALAYAM POLICE STATION,

KARUR DISTRICT.

CR. NO.15/2005

... RESPONDENT/RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence the operation of the sentence imposed upon the petitioner/revision petitioner/accused by the Judicial Magistrate No.1, Karur in C.C. No.799 of 2006 dated 25.07.2014 and confirmed by the Mahalir Neethi Mandram (Fast Track Mahila Court), Karur in Crl.A. No.32 of 2014 dated 16.12.2015 till the disposal of the Crl.R.C.

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

This is an application filed by the petitioner/revision petitioner/accused, to enlarge the petitioner on bail, by suspending the sentence imposed upon him in C.C.No.799 of 2006 on the file of the learned Judicial Magistrate No.1, Karur dated 25.07.2014 and confirmed in C.A.No.32 of 2014 dated 16.12.2015 on the file of the Mahalir Neethimandram, Fast Track Mahila Court, Karur, pending disposal of the revision.

2.It is clearly stated in the affidavit enclosed with the petition that the petitioner has been convicted and sentenced to undergo six months rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo one month simple imprisonment for the offence under Section 304(A) of I.P.C. and also convicted and sentenced to pay a fine of Rs.1000/- in default to undergo one month rigorous imprisonment for the offence under Section 132 of I.P.C. read with 177 of M.V.Act. It is further stated that the fine amount has been paid by the petitioner vide receipt No.A309198 dated 25.07.2014 before the learned Judicial Magistrate No.I, Karur and the fine receipt is also enclosed.

3.Further, it is pointed out in the affidavit that the Courts below have failed to consider the delay in despatching the F.I.R., statements and also not properly considered the versions of P.Ws.1 to 3 and 6 and the Courts below have failed to consider that they could not have seen the occurrence and the petitioner has got the fair chance of success in the revision petition.



4. In the grounds of revision, it is pointed out that the Courts below have failed to consider the contradictions between the evidences of P.Ws.1 to 3 and the presence of P.W.6 at the place of occurrence has not been proved by way of appropriate documentary evidence. Further, when the best evidence is available with the prosecution, it is the duty of the prosecution to prove such fact, by producing such evidence.

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. It is also stated that there is the prima facie case in favour of the petitioner. 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) 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.1, Karur;

ii) the petitioner/revision petitioner/Accused shall appear before the said Court once in a month viz., the 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/revision 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/police; and

iv) on receipt of the true copy of the said affidavit, the respondent/police, herein is directed to verify the veracity of the particulars given in the said affidavit and also liberty is granted to take appropriate follow up action, in accordance with law.

sd/-

21/04/2016

/ TRUE COPY /



TO

1 THE MAHALIR NEETHI MANDRAM
(FAST TRACK MAHILA COURT), KARUR.

WEB COPY

2 THE JUDICIAL MAGISTRATE NO.I,
KARUR.

3 DO-THRO' THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT.

4 THE INSPECTOR OF POLICE
PASUPATHIPALAYAM POLICE STATION, KARUR DISTRICT.

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

+1. C.C. to M/S.E.K.KUMARESAN Advocate SR.No.22703

ORDER
IN
CRL MP(MD) No.3419 of 2016
IN
CRL RC(MD) No.258 of 2016
Date :21/04/2016

PA/NGM-SS/AR I/26.04.2016/3P/7C