



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

Tuesday, the Twenty Third day of August Two Thousand Sixteen

PRESENT

The Hon`ble Dr.Justice P.DEVADASS

CRL MP (MD) No.7342 of 2016
IN
CRL RC (MD) No.577 of 2016

MURUGESAN

... PETITIONER/PETITIONER.

Vs

THE STATE OF TAMIL NADU
REPRESENTED BY
THE RANGE OFFICER,
AZHAGIYAPANDIAPURAM RANGE,
THROUGH SPECIAL PROSECUTOR,
FOR FOREST OFFENCES
(O.R. NO. 96/97-98)

... RESPONDENT/RESPONDENT.

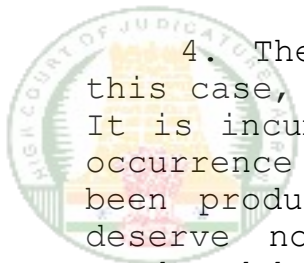
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner by the judgment dated 01.07.2016 passed in C.A.No. 140 of 2008 on the file of the Mahila Fast Track Court, Nagercoil confirming the judgment dated 23.10.2008 passed in C.C.No. 154 of 2008 on the file of the Special Court (Forest Cases), Nagercoil and enlarge the petitioner on bail pending disposal of the above 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.R.MURUGAN, Advocate for the petitioner and of M/S.S.PRABHA, Government Advocate(Crl.Side), on behalf of the Respondents the court made the following order:-

The revision petitioner challenges the legality and propriety of the conviction and sentence recorded by the trial Court as well as the appellate Court.

2. The revision petitioner is the accused in a case under Section 21(d) (e) of the Tamil Nadu Forest Act in C.C.No.154 of 2008. The learned Special Judicial Magistrate (Forest Cases), Nagercoil convicted the petitioner and sentenced to R.I. for two years and fined Rs.7,500/-, i/d., 6 months S.I.

3. The learned Mahila Judge, Fast Track Court, Nagercoil confirmed the conviction and sentence and dismissed the Criminal Appeal No.140 of 2008.



4. The learned counsel for the petitioner contended that in this case, where a forest offence is alleged to have been committed. It is incumbent upon the prosecution to establish that the alleged occurrence took place in a forest area, for which no materials has been produced. The evidence of P.Ws.1 to 3 is such that they deserve no credence. Above all, no physical evidence has been produced before the Court. The trial Court as well as the appellate Court in having brushed aside these important aspects fell into error, resultantly findings recorded by the Courts below suffers from perversity calling for interference by this Court in exercise of its revisional jurisdiction under Section 397 r/w. 401 of I.P.C. There is prima facie case in favour of the petitioner. In the trial Court as well as in the appellate Court, petitioner was on bail.

5. On the other hand, the learned Government Advocate (Crl.side) appearing for the respondent would submit that the conviction recorded by the trial Court as well as the appellate Court are perfectly correct and they require no disturbance.

6. In the facts and circumstances, perusing the impugned judgments and the materials on record, I am of the view that certain eminently arguable points are involved in this Criminal Revision. They are required to be examined in detail at the main criminal revision. It will take some time for the disposal of this Criminal revision. Fine amount has been paid. Further, the petitioner was on bail in the trial Court as well as in the appellate Court. I see prima facie case. I am inclined to grant revision bail to the petitioner.

7. In view of the above, ordered as under:

(1) Revision bail granted.

(2) Sentence of imprisonment awarded by the learned Special Judicial Magistrate (Forest Cases), Nagercoil in C.C.No.154 of 2008 as confirmed by the learned Mahila Judge, Fast Track Court, Nagercoil in Crl.A.No.140 of 2008 alone is suspended.

(3) There shall be two sureties, they and the petitioner shall execute a bond for Rs.15,000/- (Rupees Fifteen Thousand only) each to the satisfaction of the learned Special Judicial Magistrate (Forest Cases), Nagercoil.

(4) The petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. until further orders.

sd/-

23/08/2016

/ TRUE COPY /

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

TO

1 THE SPECIAL JUDICIAL MAGISTRATE, (FOREST CASES),

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

NAGERCOIL.



2 THE MAHILA JUDGE,
FAST TRACK COURT, NAGERCOIL.

3 THE RANGE OFFICER
AZHAGIYAPANDIAPURAM RANGE,
THROUGH SPECIAL PROSECUTOR,
FOR FOREST OFFENCES

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

+1. C.C. to M/S.R.MURUGAN Advocate SR.No.46574.

ORDER
IN
CRL MP (MD) No.7342 of 2016
IN
CRL RC (MD) No.577 of 2016
Date :23/08/2016

AM/GSV.PM/SAR-I/24.08.2016/3P/6C