

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Tenth day of March Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL MISCELLANEOUS PETITION No.3409 & 3411 of 2017

IN CRL RC.369/2017

BALAJI

[PETITIONER]

Vs

STATE REP.BY

[RESPONDENT]

THE STATION HOUSE OFFICER (SHO),
VADALUR POLICE STATION,
CUDDALORE DISTRICT.
CR.NO.438 OF 2012.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.369/2017 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence in C.A.No.35 of 2014 on the file of the Principal Sessions Judge, Court of Sessions, Cuddalore Division, Cuddalore, Cuddalore District set aside the conviction in S.C.No.11 of 2013 on the file of the learned Additional Assistant Sessions Judge, (ASJ No.II), Cuddalore, Cuddalore District, in CRL.RC.NO.369 OF 2017 [IN CRL.MP.NO.3409 OF 2017]

[ii] exemption to surrender and executing the surety on bail in C.A.No.35 of 2014 on the file of the Principal Sessions Judge, Court of Sessions, Cuddalore Division, Cuddalore, Cuddalore District set aside the conviction in S.C.No.11 of 2013 on the file of the learned Additional Assistant Sessions Judge (ASJ No.II), Cuddalore, Cuddalore District, in CRL.RC.NO.369 OF 2017 [IN CRL.MP.NO.3411 OF 2017]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.369/2017 on the file of the High Court and upon hearing the arguments of M/S.A.GOPINATH, Advocate for the petitioner and of MR.R.RAVICHANDRAN, Govt. Advocate (Crl. Side) on behalf of the Respondents the court made the following order:-

The Petitioner is a sole accused in S.C.No.11 of 2013 on the file of the learned Additional Assistant Sessions Judge (ASJ No.II), Cuddalore. He stood charge for the offence under section 341,326, 307 IPC and 294(b) IPC. The Trial Court convicted the petitioner under section 341 IPC and sentenced to undergo one month rigorous imprisonment and a fine of Rs.500/-, convicted under 326 IPC and sentenced to undergo three years rigorous imprisonment and a fine of Rs.5,000/- and convicted under section 307 IPC and sentenced to undergo five years rigorous imprisonment and a fine of Rs.10,000/- and acquitted him for the charge under section 294(b) IPC. Challenging the same, petitioner preferred an appeal in C.A.No.35 of 2014 and the appellate court confirmed the conviction and sentence under sections 341 and 307 IPC and modified the sentence for the offence under section 307 IPC from five years to three years rigorous imprisonment and a fine of Rs.15,000/- in default to undergo three months simple imprisonment.

2.Challenging the above said conviction and sentence, the present revision has been filed along with the petitions for suspension of sentence and exemption from surrendering before the Trial Court.

3. Heard Mr.A.Gopinath, learned counsel for the petitioner and Mr.R.Ravichandran, learned Government Advocate (Crl. side) appearing for the respondent and perused the impugned judgment and the materials on record.

4. Learned counsel for the petitioner submitted that after the occurrence, the petitioner/accused was taken to the hospital by one Iyyappan, who informed the doctor that PW2 was assaulted by four unknown persons using deadly weapons. But, the said Iyyappan was not examined and the petitioner alone has been made as accused.

5. I have considered the submissions made and perused the materials available on record and I find some arguable points in the revision. In the above circumstances, I am inclined to suspend the substantive sentence alone. Accordingly, pending appeal, sentence of imprisonment alone is suspended and the petitioner is released on bail on executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate-III, Cuddalore, with further condition that he shall appear before the said court on the first working day of every month at 10.30 a.m., until further orders. The surrender of the petitioner before the trial Court is exempted.

-sd/-
10/03/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE ADDITIONAL ASSISTANT
SESSIONS JUDGE [ASJ NO.II] CUDDALORE.

2 THE JUDICIAL MAGISTRATE,
NO.III, CUDDALORE.

3 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION]

4 THE STATION HOUSE OFFICER (SHO),
VADALUR POLICE STATION,
CUDDALORE DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S.A.GOPINATH Advocate on payment of necessary
charges SR NO.4629

Order

in
CRL MP.3409 & 3411 OF 2017

in
CRL RC.369/2017

Date :10/03/2017

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MK:16/03/2017