



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Seventeenth day of November Two Thousand Seventeen
PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP(MD) No.10488 of 2017

IN

CRL A(MD) No.462 of 2017

WEB COPY

MOORTHY

... PETITIONER/ PETITIONER/
ACCUSED NO.1

Vs

STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUPPARANKUNTRAM,
AUSTINPATTI POLICE STATION,
MADURAI.
(IN CRIME NO.201 OF 2016)

... 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 passed by the Learned III Additional District and Sessions Judge (PCR Cases), Madurai in Spl.S.C.No.96 of 2016 dated 23.10.2017 and enlarge the petitioner on Bail, pending disposal of the Criminal Appeal and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.S.THIRUPATHY, Advocate for the petitioner and of M/S.T.MOHAN, Additional Public Prosecutor on behalf of the Respondent, While admitting the CRL.A, the court made the following order:-

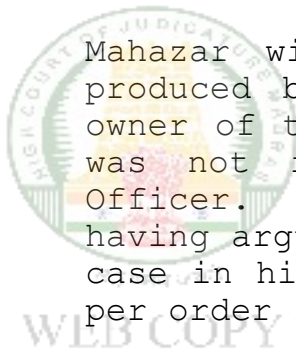
This Criminal Miscellaneous Petition has been filed by the Petitioner / appellant / A1, praying to suspend the sentence of imprisonment imposed on them by the learned III Additional District and Sessions Court (PCR), Madurai in its order dated 23.10.2017 in Spl.S.C.No.96 of 2016 pending disposal of the above Criminal Appeal.

2.After trial, they have been convicted and sentenced as under:

Conviction	Sentence
Section 3(1) TNPPDL Act	1 Year S.I + Fine of Rs.3,500, i/d 3 months S.I.

3. The fine amount has been paid by the petitioner / appellant.

4.The learned counsel appearing for the petitioner / appellant
<https://hcservices.courts.gov.in/hcservices/> P.W.1 never stated in the complaint about the presence of P.W.2, P.W.4 and P.W.5 at the time of occurrence. M.O.1, which is produced by the prosecution, is not supported by the



Mahazar witness and also P.W.6 in this case. No document was produced by the prosecution to prove the fact that P.W.1 is the owner of the Mini van bearing Reg.No.TN-72-D-9761 and also the van was not recovered as per the evidence P.W.16 / Investigating Officer. He further submitted that the petitioner / appellant is having arguable points in this appeal and he is having a prima facie case in his favour. The Trial Court also suspended the sentence as per order in Cr.M.P.No.2154 of 2017 till 23.11.2017.

5.The learned Additional Public Prosecutor appearing for the respondent would submit that the Trial Court has rightly convicted the accused on the basis of the evidence adduced by the prosecution during trial and the petitioner / appellant is not having any prima facie case in the appeal. However, the learned Additional Public Prosecutor has no serious objection to grant an order of suspension since the Trial Court itself suspended the sentence for a particular period.

6.This Court heard the submissions made by the learned counsel appearing for the petitioner / appellant and the learned Additional Public Prosecutor appearing for the respondent and also perused the materials available on record, including the impugned Judgment of the Court below.

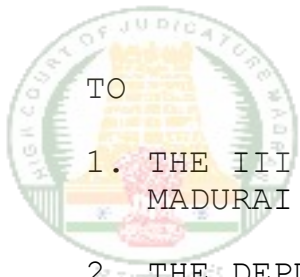
7.Considering the above facts and circumstances of the case, this Court is of the view that there are certain arguable points involved in this Criminal Appeal and they are required to be examined in detail in the main Appeal. I see prima facie case in favour of the petitioner / appellant, for grant of an order of suspension.

8. On considerations, ordered as under:-

- (i) Appeal bail granted.
- (ii) Sentence of imprisonment ordered by the trial Court alone is suspended, till the disposal of the appeal.
- (iii) There shall be two sureties and they shall execute a bond for Rs.15,000/- (Rupees Fifteen Thousand Only) each to the satisfaction of the learned III Additional District and Sessions Court (PCR), Madurai.
- (iv) The petitioner / appellant shall appear before the said Court on the first working day of every month at 10.30 am., until further orders.

sd/-
17/11/2017

/ TRUE COPY /



TO

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

2. THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUPPARANKUNTRAM,
AUSTINPATTI POLICE STATION, MADURAI.

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

+1. C.C. to M/S.S. THIRUPATHY Advocate SR.No.34737

ORDER

IN

CRL MP (MD) No.10488 of 2017

IN

CRL A (MD) No.462 of 2017

Date :17/11/2017

MS/PM-PN/SAR.4/20.11.2017/3P.5C