



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

Thursday, the Twenty Third day of November Two Thousand Seventeen

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PRESENT

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

CRL MP (MD) No.10668 of 2017

IN

CRL RC (MD) No.868 of 2017

R.MARIAPPAN

... PETITIONER/PETITIONER

Vs

STATE THROUGH,
THE INSPECTOR OF POLICE,
KARUR TOWN POLICE STATION, KARUR.
CR.NO.89 OF 2009.

... 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 Learned Judicial Magistrate No.I, Karur in C.C.No.89 of 2009 dated 07.06.2017 confirmed by the Learned Principal Sessions Judge, Karur in Crl.A.No.76 of 2017 dated 31.10.2017.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.T.ANTONY ARUL RAJ, Advocate for the petitioner and of Mr.K.S.DURAI PANDIYAN, Additional Public Prosecutor on behalf of the Respondent, while admitting this Crl.R.C., this court made the following order:-

The petitioner / accused in C.C.No.89 of 2009 on the file of the learned Judicial Magistrate No.I, Karur while challenging his conviction and sentence, dated 07.06.2017, seeks revision bail under Section 389 (1) Cr.P.C.

2. After trial, he has been convicted and sentenced as under:

Conviction	Sentence
Section 279 of IPC	3 months S.I.
Section 337 of IPC	3 months S.I. (5 counts)
Section 338 of IPC	6 months S.I. (3 counts)

3.The petitioner preferred an appeal against the order of Trial Court in C.A.No.76 of 2017 before the Principal Sessions Judge, Karur and the same was partly allowed by setting aside the order of conviction for the offences under Section 279 and reduced the



imprisonment for the offence under Section 337 of IPC to undergo 1 month S.I.(5 counts) and also for the offence under Section 338 only for 2 counts to undergo 3 months S.I. Against the judgment of the Appellate Court, the present revision is preferred by the petitioner herein.

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4.The learned counsel for the petitioner submitted that there are very many legal infirmities in the conviction recorded by the Trial Court and they are required to be revised. He further submitted that on the date of occurrence, the petitioner was working as a driver in the Government bus and the alleged occurrence took place due to the lorry, which was parked in the middle of the road without any indications. P.W.4 has also admitted that the lorry was parked in the middle of the road, but the Investigating Officer, who is examined as P.W.14 has not stated about the parking of the vehicle in the road. P.W.13, who registered the FIR, also does not speak about the location of the parked vehicle in the middle road without any indications. He further submitted that the petitioner is having prima facie case and having arguable points in his favour and seeks suspension of sentence.

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 Appellate Court has also considered the order of conviction. He further submitted that the petitioner 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.

In the facts and circumstances, perusing the impugned Judgment 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 in the main criminal revision. On considerations, this petition is ordered as under:

(i) Revision bail is granted.

(ii) Substantial sentence alone is suspended on condition that the petitioner shall execute a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties for the likesum each to the satisfaction of the learned Judicial Magistrate No.1, Karur.

(iii) 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/-

23/11/2017

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TO

1 THE PRINCIPAL SESSIONS JUDGE, KARUR

2 THE JUDICIAL MAGISTRATE NO I
KARUR

3 THE CHIEF JUDICIAL MAGISTRATE
KARUR DISTRICT

4 THE INSPECTOR OF POLICE,
KARUR TOWN POLICE STATION, KARUR.

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

+1. C.C. to M/S.T.ANTONY ARUL RAJ Advocate SR.No.35015

ORDER
IN
CRL MP (MD) No.10668 of 2017
IN
CRL RC (MD) No.868 of 2017
Date :23/11/2017

gns

SH/PM-PN/SAR-2:27.11.2017:3P/7C