



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

Wednesday, the Sixth day of December Two Thousand Seventeen

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PRESENT

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

CRL MP (MD) No.11095 of 2017

IN

CRL A (MD) No.487 of 2017

MARI @ MARIMUTHU

... PETITIONER/ APPELLANT

Vs

1 THE DEPUTY SUPERINTENDENT OF POLICE,
SAMAYANALLUR SUB DIVISION,
SAMAYANALLUR, MADURAI DISTRICT.

2 THE INSPECTOR OF POLICE,
SAMAYANALLUR POLICE STATION,
MADURAI DISTRICT.

CRIME NO.403 OF 2015.

...RESPONDENTS/ COMPLAINANT

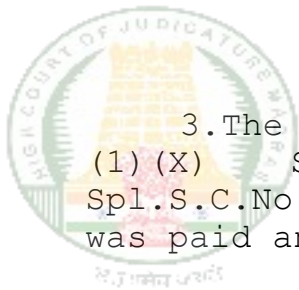
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence of imprisonment imposed in Spl.S.C.No.129 of 2016 dated 07.11.2017 by the learned III Additional District and Sessions Judge, (PCR Cases), Madurai, pending disposal of the above said 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.R.VIJAYAGOPAL, Advocate for the petitioner and of M/S.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor on behalf of the Respondents, While admitting the CRL.A, the court made the following order:-

The accused in Spl.S.C.No.129 2016, on the file of the learned III Additional District and Sessions Judge, (PCR Cases), Madurai, while challenging his conviction and sentence, seeks appeal bail under Section 389(1) Cr.P.C.

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

Conviction	Sentence
Section 452 of IPC.,	1 Year R.I. + Fine of Rs.1,000/-, i/d 1 week S.I.
Section 324 of IPC.,	1 Year R.I. + Fine of Rs.1,000/-, i/d 1 week S.I.
Section 506(ii) of IPC.,	1 Year R.I. + Fine of Rs.5,00/-, i/d 1 week S.I.



3. The petitioner was acquitted for an offence under Section 3 (1) (X) SC/ST Act, as per the judgment, dated 07.11.2017 in Spl.S.C.No.129 of 2016. The fine amount imposed by the Trial Court was paid and the copy of the receipt is also produced.

4. The learned counsel appearing for the petitioner submitted that the Trial Court has not considered the fact that the complaint was not written by the defacto complainant, but the complaint was written by one unknown person and that unknown person was not examined before the trial Court. P.Ws.4 & 7 have admitted during their evidence that they have not seen the occurrence. There are certain contradictions in the evidence of P.Ws.1 to 3 and the interested witnesses alone were examined by the prosecution in this case. The alleged occurrence, as per the evidence of P.W.12, took place at about 2.30 p.m., on 12.11.2015 in front of the Pepsi Bus stop. P.W.1 has stated in his cross-examination that at the time of complaint, the accused was inside the police station. Hence, the petitioner is having prima facie case of acquittal in this appeal.

5. The learned Additional Public Prosecutor appearing for the respondent states that appreciating the evidence adduced, the Trial Court has rightly convicted and appropriately sentenced the petitioner and there is no prima facie case in favour of the petitioner herein, however, he has not raised any serious objection to grant the order of suspension.

6. 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 the Criminal Appeal. They are required to be examined in detail in the main Criminal Appeal. Further, it will take some time for the disposal of the Criminal Appeal.

7. On considerations, ordered as under:

- (i) Appeal bail granted.
- (ii) Substantial sentence alone is suspended on condition that the petitioner shall execute a bond for Rs.15,000/- (Rupees Fifteen thousand only) with two sureties for the like sum each to the satisfaction of the learned III Additional District and Sessions Judge, (PCR Cases), Madurai.
- (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/-

06/12/2017

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TO

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

2 THE DEPUTY SUPERINTENDENT OF POLICE,
SAMAYANALLUR SUB DIVISION,
SAMAYANALLUR, MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE,
SAMAYANALLUR POLICE STATION,
MADURAI DISTRICT.

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

+1. C.C. to M/S.R.VIJAYAGOPAL Advocate SR.No.35644

ORDER

IN

CRL MP (MD) No.11095 of 2017

IN

CRL A (MD) No.487 of 2017

Date :06/12/2017

MS/CM-VR/SAR.1/07.12.2017/3P.6C