



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

Thursday, the Seventh day of December Two Thousand Seventeen

PRESENT

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

CRL MP(MD) No.11115 of 2017
IN
CRL RC(MD) No.905 of 2017

BAUL SUNDAR

... PETITIONER/PETITIONER/
RESPONDENT/SOLE ACCUSED

Vs

D.DAVIS MARTIN

... RESPONDENT/RESPONDENT/
PEITIONER/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 imposed by the Judgment dated 02.11.2017 made in Crl.A.No.43 of 2016 on the file of VI Additional District Sessions Judge, Madurai in reversing the Judgment dated 20.05.2016 in C.C.No.69 of 2014 on the file of Judicial Magistrate Court No.V, Madurai and enlarge the petitioner on bail pending disposal of the above Criminal Revision 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 MR.AJMAL KHAN Senior Counsel for MR.J.SULTHAN BASHA for M/S.AJMAL ASSOCIATES, Advocate for the petitioner and of the respondent not appeared either in person or by an advocate while admitting CRL RC the court made the following order:-

The petitioner / sole accused in C.C.No.69 of 2014 on the file of the learned Judicial Magistrate Court No.V, Madurai and after trail, the Trail Court has acquitted the accused by judgment dated 20.05.2016.

2.Against the judgment of acquittal, the de facto complainant / respondent has preferred an appeal before the VI Additional District Sessions Court, Madurai in Crl.A.No.43 of 2016 and the petitioner was convicted by the said Court as under:

Conviction	Sentence
Section 419 of IPC	1 year R.I.
Section 468 of IPC	1 year R.I. + Fine of Rs.1,000/- i/d 3 months S.I.

3.The above sentences ordered to be run concurrently. Against that order of conviction passed by the Appellate Court, the present Criminal Revision case is preferred before this Court by the petitioner herein. The Trial Court itself has suspended the

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sentence till 08.12.2017 by order in Crl.M.P.No.675 of 2017, dated 10.11.2017.

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 the petitioner herein is the Treasurer and he was authorised to sell the Church properties to the third parties and hence, the question of cheating by impersonation, attracting the offence under Section 419 of IPC does not arise. P.W.1 has also admitted in his evidence that the petitioner has not alienated the properties as mentioned in Ex.P4 to Ex.P11 individually and he has sold the same in the capacity of Treasurer of the Trust Association along with others, who were appointed by the Trust Association. It is also admitted by P.W.2 in his evidence that the sale consideration was also deposited in the account of the Trust Association and the petitioner has not intended to cheat or misuse his capacity as Treasurer. Therefore, the petitioner is having prima facie case and having arguable points in his favour and seeks suspension of sentence.

5.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 Court No.V, 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/-

07/12/2017

/ TRUE COPY /

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

TO

- 1 THE VI ADDITIONAL DISTRICT SESSIONS JUDGE, MADURAI.
- 2 THE JUDICIAL MAGISTRATE NO.V, MADURAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.

+1. C.C. to M/S.AJMAL ASSOCIATES Advocate SR.No.35772

ORDER IN
CRL MP(MD) No.11115 of 2017 IN
CRL RC(MD) No.905 of 2017
Date :07/12/2017