



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

Friday, the Fifteenth day of December Two Thousand Seventeen
PRESENT

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

CRL MP(MD) No.11389 of 2017
IN
CRL A(MD) No.502 of 2017

NAGU @ NAGARATHINAM

...PETITIONER/APPELLANT/ A1

Vs

1 STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
(THIRUMANGALAM CIRCLE RANGE),
MADURAI DISTRICT.

2 THE INSPECTOR OF POLICE,
AUSTINPATTI POLICE STATION,
MADURAI DISTRICT.
(CRIME NO.269/2016)

... RESPONDENT/ COMPLAINANTS

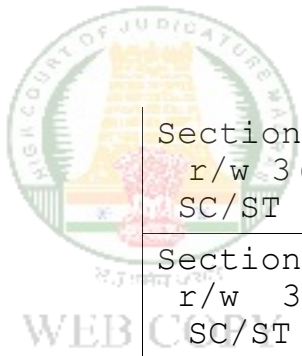
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order to suspend the sentence imposed on the petitioner Spl.S.C.No.97 of 2016 dated 15/11/2017 by the III Additional District Sessions Judge, (PCR) Madurai, Madurai District pending disposal of the above Crl.A(MD).NO.502/2017.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.A.BANUMATHY, 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:-

This Criminal Miscellaneous Petition has been filed by the Petitioner /A1/ Appellant, praying to suspend the sentence of imprisonment imposed on him, by the learned III Additional District Sessions Judge, PCR, Madurai, Madurai District, in its order dated 15.11.2017 in Spl.S.C.No.97 of 2016 pending disposal of the above Criminal Appeal.

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

Conviction	Sentence
Section 341 of IPC (2) of SC/ST (POA) Act	one month S.I. + Rs.500/- i/d one week S.I.



Section 323 of IPC r/w 3(2) (va) of SC/ST (POA) Act	1 year R.I. + Fine of Rs.1,000/- i/d one month S.I.
Section 324 of IPC r/w 3(2) (va) of SC/ST (POA) Act	3 Years R.I. + Fine of Rs.1,000/-, i/d 3 months S.I.

3.The above sentences ordered to be concurrently. Fine amount has been paid by the appellant and copy of the receipt also produced.

4.The learned counsel appearing for the petitioner / appellant submitted that no corroborating evidence is available except the evidence of P.Ws.1 & 2 before the Trial Court and P.W.1 and P.W.2 are contradictory evidences. The evidence adduced by P.W.1 before the Doctor that he was assaulted by three male and two female persons with beer bottle and stick. P.W.2 has stated before the Doctor that he was assaulted by four male persons with beer bottle. But the respondent Police filed charge sheet as if, only two persons alone have assaulted, mentioning as, the other accused persons are not traced out by the Police. She further submitted that the petitioner / appellant has filed a petition in CrI.M.P.No.2294 of 2017 before the Trial Court for suspension of sentence and the same was ordered and suspension of sentence was ordered by the court below till 18.12.2017. She also submitted that the petitioner / appellant is having arguable points in this appeal and he is having a prima facie case in his favour.

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 till 18.12.2017.

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.

<https://hcservices.courts.gov.in/hcservices/> 8. On the basis of the above 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 Sessions Judge, PCR, Madurai, Madurai District.

(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/-
15/12/2017

/ TRUE COPY /

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

TO

1. THE III ADDITIONAL DISTRICT SESSIONS JUDE, (PCR),
MADURAI, MADURAI DISTRICT.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
(THIRUMANGALAM CIRCLE RANGE),
MADURAI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
AUSTINPATTI POLICE STATION,
MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.A.BANUMATHY Advocate SR.No.36291

ORDER
IN
CRL MP(MD) No.11389 of 2017
IN
CRL A(MD) No.502 of 2017
Date :15/12/2017

MS/CM-VR/SAR.1/15.12.2017/3P.6C