



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

Monday, the Eighteenth day of December Two Thousand Seventeen
PRESENT

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

WEB COPY

CRL MP(MD) No.11423 of 2017

IN

CRL RC(MD) No.935 of 2017

CHENNA KESAVAN

... PETITIONER/ APPELLANTE/
ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
NALLATINPUDUR POLICE STATION,
THOOTHUKUDI DISTRICT.
(CRIME NO.289/2009)

... RESPONDENT/ RESPONDENT/
COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed on the petitioner herein in C.A.No.26 of 2016 dated 19/09/2017 First Additional District & Sessions Judge, Thoothukudi by confirming the judgement passed in C.C.No.5 of 2011 dated 03/06/2016 on the file of the Judicial Magistrate No.I, Kovilpatti and enlarge the petitioner on bail pending disposal of the above appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.D.SIVARAMAN, Advocate for the petitioner and of M/S.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor on behalf of the Respondent, While admitting the CRL.RC, the court made the following order:-

The petitioner /sole accused in C.C.No.5 of 2011, on the file of the learned Judicial Magistrate No.I, Kovilpatti while challenging his conviction and sentence dated 03.06.2016, seeks revision bail under Section 397(1) Cr.P.C.

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

Conviction	Sentence
Section 304 (A) of IPC	1 year S.I. + Fine of Rs.1,000/- i/d 4 weeks S.I.

3.Fine amount was paid by the petitioner herein. Against the conviction, the petitioner preferred an appeal in C.A.No.26 of 2016 before the learned I Additional District & Sessions Court, Thoothukudi and the same was dismissed by confirming the judgment of



the Trial Court. Against the order of Appellate Court, present Criminal Revision is preferred by the petitioner herein.

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 there are several contradictions in the evidence of P.Ws.1 to 4 with regard to the place of accident and there are some corrections in the FIR by using whitener and hence, FIR is not reliable one and there was no evidence produced by the prosecution to prove that the petitioner/accused was driving the lorry in a rash and negligent manner at the time of occurrence. It is further submitted that there is a delay in lodging and despatching the FIR before the concerned Court and no acceptable reason is assigned by the prosecution for the said delay. He further submitted that the petitioner is having arguable points in this revision and he is having a prima facie case in his favour.

5.The learned Additional Public Prosecutor submitted that the courts below have rightly convicted the petitioner on the basis of the evidence adduced by the prosecution and there is no prima facie case in this revision. However, the learned Additional Public Prosecutor submitted that he has no objection to grant 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 this criminal revision case. They are required to be examined in detail in the main criminal revision. Further, it will take some time for the disposal of the 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.I, Kovilpatti.
- (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/-
18/12/2017

/ TRUE COPY /



TO

1. THE 1st ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THOOTHUKUDI.

2. THE JUDICIAL MAGISTRATE NO.I, KOVILPATTI.

3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.

4. THE INSPECTOR OF POLICE,
NALLATINPUDUR POLICE STATION, THOOTHUKUDI DISTRICT.

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

+1. C.C. to M/S.D.SIVARAMAN Advocate SR.No.36430

ORDER

IN

CRL MP(MD) No.11423 of 2017

IN

CRL RC(MD) No.935 of 2017

Date :18/12/2017

MS/VR/SAR.1/19.12.2017/3P.7C