



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

Friday, the Thirteenth day of October Two Thousand Seventeen

PRESENT

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

CRL MP (MD) No.2299 of 2017
IN
CRL A (MD) No.283 of 2016

1 BABU
2 SASI

... APPELLANTS/ACCUSED 1 & 2

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
N.I.B. CID, THENI.
(CRIME NO.129 & 130/2003)

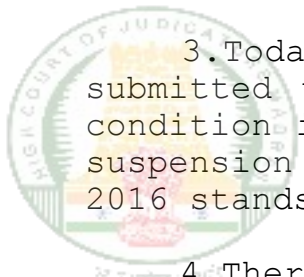
... RESPONDENT/COMPLAINANT

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 on the Petitioner by the Honourable Learned 2nd Additional Special NDPS Court District and Sessions Judge, Madurai Vide in C.C.No.1247 of 2003 dated 23.06.2016 enlarge the Petitioner on bail, pending disposal of the 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.K.PRABAKARAN, Advocate for the petitioners and of MR.T.MOHAN Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

The learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the respondent are present. Heard both sides.

2.The petition in Crl.M.P.(MD)No.6583 of 2016 was filed for suspension of sentence, wherein, it has been mentioned that the fine amount has been paid by the petitioners and hence, this Court granted an order of suspension on 24.10.2016. However, as per the intimation from the Court below dated 09.11.2016, it was found that the petitioners have not paid the fine amount. Hence, this Court by order dated 10.11.2016 in Crl.M.P.(MD)No.6583 of 2016 directed the petitioners to deposit the fine amount before the concerned Court within a period of 4 weeks from the date of order, failing which, the order of suspension will be revoked and the order of suspension already granted in Crl.M.P.(MD)No.6583 of 2016 dated 24.10.2017 is ordered to be kept in abeyance till the date of compliance.



3.Today when the matter is taken up for hearing, it is submitted that the petitioners have not chosen to comply with the condition imposed by this Court on 10.11.2016. Hence, the order of suspension of sentence dated 24.10.2017 in CrI.M.P.(MD)No.6583 of 2016 stands revoked.

4.Therefore, the petition in CrI.M.P.(MD)No.2299 of 2017 has been filed to suspend the sentence.

5.The learned counsel for the petitioners would submit that the first petitioner has not paid the fine amount and hence, he seeks permission to withdraw this petition in respect of the first petitioner is concerned. He has also made an endorsement to that effect.

6.The petitioners were convicted under Section 8(c) r/w 20(b) (2)(b) NDPS Act and sentenced to undergo rigorous imprisonment for a period of 10 years and to pay a fine amount of Rs.1 lakh i/d to undergo one year S.I.

7.The learned counsel for the petitioners would submit that the second petitioner alone has paid the fine amount on 11.10.2017 and proof of payment has also been filed. He further would submit that there are very many legal infirmities in the conviction recorded by the Trial Court and they are required to be revised. He also would submit that the second petitioner was on bail during trial. He also would submit that there is prima facie case in favour of the second petitioner.

8.The learned Additional Public Prosecutor appearing for the respondent submitted that the court below has rightly convicted the petitioners on the basis of the evidence adduced by the prosecution and there is no prima facie case in this appeal. However, he has no objection to grant order of suspension to the second petitioner.

9.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 appeal. They are required to be examined in detail in the main Criminal Appeal. Accordingly, the petition is allowed for the 2nd petitioner is concerned, on the following conditions:

- (i) Appeal bail is granted to the second petitioner alone.
- (ii) Substantial sentence alone is suspended on condition that the second 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 II Additional Special NDPS Court District and Sessions Judge, Madurai.
- (iii) The second petitioner shall appear before the Court concerned on the first working day of every month at 10.30 a.m., until further orders.



10. In view of the endorsement made, this petition is dismissed as withdrawn in respect of the first petitioner is concerned.

sd/-
13/10/2017

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WEB COPY

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

TO

- 1 THE II ADDITIONAL SPECIAL NDPS COURT
DISTRICT AND SESSIONS JUDGE, MADURAI.
 - 2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
 - 3 THE INSPECTOR OF POLICE,
N.I.B. CID, THENI.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S.R.BABU JEGANATH Advocate SR.No.32780

ORDER
IN
CRL MP (MD) No.2299 of 2017
IN
CRL A (MD) No.283 of 2016
Date :13/10/2017

MKV-CM-MSA-SAR 2/23.10.2017/3P-6C