



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

Friday, the Eighteenth day of August Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

WEB COPY

CRL MP(MD) No.7447 of 2017
IN CRL RC(MD) No.657 of 2017

D.THIYAGARAJAN

... PETITIONER/PETITIONER

Vs

STATE OF TAMIL NADU,
THE INSPECTOR OF POLICE
TRAFFIC INVESTIGATION WING,
KOTTAR, KANYAKUMARI DISTRICT.

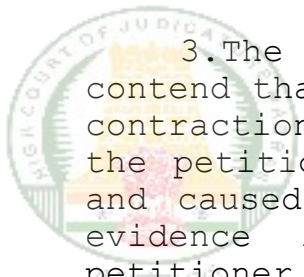
... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence in Crl.A.No.264/2005 on the file of the Fast Track Court (Mahalir), Nagercoil dated 25/01/2017 modifying the STC.No.870/2003 on the file of the Judicial Magistrate No.III, Nagercoil order dated 07/11/2005.

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

The petitioner stood convicted for an offence under Section 338(2 counts) and 304(A) I.P.C and sentenced to undergo one year rigorous imprisonment and also a fine of Rs.1,000/-, in default to undergo three months simple imprisonment for each count. For an offence Section 338 (2 counts) I.P.C, and two years rigorous imprisonment and also a fine of Rs.5,000/-, in default to undergo six months simple imprisonment for an offence Section 304(A) I.P.C in S.T.C.No.870 of 2003, on the file of the learned Judicial Magistrate, No.3, Nagercoil. Challenging the same, he preferred an appeal in C.A.No.264 of 2005 on the file of the Fast Track Mahila Court, Nagercoil. The lower appellate court and modified the sentence under Section 304(A) I.P.C for six months and confirmed the sentence in respect of other offence. Challenging the conviction and sentence, the petitioner has filed Crl.R.C(MD).No.657 of 2017. Pending revision, in order to suspend the conviction and sentence imposed on the petitioner, the present petition has been filed.

2.I have Heard Mr.T.Selvakumaran, the learned Counsel appearing for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor appearing for the respondent and perused the records carefully.



3.The learned counsel appearing for the petitioner would contend that P.Ws.2 and 3 are injured witnesses and there are lot of contradictions in their evidence. There is no evidence to show that the petitioner has driven the vehicle in rash and negligent manner and caused the injury. The court below, without considering the evidence in proper perspective, convicted and sentenced the petitioner.

4.I have considered the materials available on record.

5.Considering the facts and circumstances of the case and since there are some arguable points involved in the revision and it may take a long time for taking up the revision for hearing, I am constrained to suspend the sentence of imprisonment alone imposed against the petitioner.

6.In fine, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended and the petitioner shall be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) along with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, No.3, Nagercoil, with a further condition that the petitioner shall report before the committal Court on the first working day of every English Calender month at 10.30 a.m., till the disposal of the revision or until further orders.

sd/-
18/08/2017

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

vs
TO

- 1 THE JUDGE
FAST TRACK COURT (MAHALIR) NAGERCOIL
- 2 THE JUDICIAL MAGISTRATE NO.III, NAGERCOIL
- 3 THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL
- 4 THE INSPECTOR OF POLICE
TRAFFIC INVESTIGATION WING,
KOTTAR, KANYAKUMARI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1. C.C. to M/S.T.SELVAKUMARAN Advocate SR.No.29041

ORDER IN
CRL MP(MD) No.7447 of 2017
IN CRL RC(MD) No.657 of 2017
Date :18/08/2017