



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

Monday, the Thirteenth day of November Two Thousand Seventeen

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PRESENT

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

CRL MP(MD) No.7818 of 2017

IN

CRL A(MD) No.337 of 2017

SENTHILKUMAR

... PETITIONER/APPELLANT/ACCUSED No.1

Vs

STATE REP BY

THE INSPECTOR OF POLICE

THRUPPARANKUNDRAM POLICE STATION,

MADURAI CITY

CRIME NO. 268/2015.

... RESPONDENT/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 of imprisonment alone in S.C No. 51/2016 dated 31.07.2017 on the file of the Learned IV Additional Sessions Judge Madurai and enlarge the Petitioner /Accuse No. 1 on bail till the disposal of the of the Criminal Appeal.

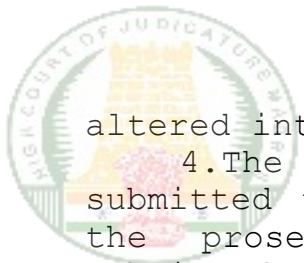
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.C.PRABHAKARAN, Advocate for the petitioner and of Additional Public Prosecutor for the Respondent the court made the following order:-

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 IV Additional Sessions Judge, Madurai in its order dated 31.07.2017 in S.C.No.51 of 2016 pending disposal of the above Criminal Appeal.

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

Conviction	Sentence
Section 304(ii)	10 years R.I + Fine of Rs.5,000/-, i/d 3 months S.I.
Section294(b)	3 months S.I

3.The fine amount was paid by the appellant herein. The charge sheet was laid under Section 294(b) IPC and 302 r/w 34 of IPC. At the time of awarding punishment by the trial Court, Section 302 was



altered into 304(ii) of IPC and punishment was awarded in this case.

4.The learned counsel appearing for the petitioner / appellant submitted that there are several contradiction in the evidence of the prosecution in respect of commission of offence. He further submitted that P.W.1 herself evidenced that persons, who were present, have witnessed the occurrence, but those witnesses were not examined by the respondent police. He further submitted that the petitioner / appellant is having a prima facie case in this appeal in respect of charges under Section 304(ii) of IPC. The petitioner was confined in jail from the date of judgment dated 31.07.2017. No independent witnesses is produced by the prosecution except PW1 to PW7 who are interested witnesses/Relatives of the deceased. The petitioner was on bail during the pendency of trial. PW1 to PW5 are not at all eye witnesses but hearsay witnesses.

5.The learned Additional Public Prosecutor appearing for the respondent would submit that the Trial Court has rightly convicted the appellant on the basis of evidence adduced by the prosecution during trial and the petitioner / appellant is not having any prima facie case in this appeal. However, he has no serious objection to grant suspension of sentence to the appellant.

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.

8. On 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 Judicial Magistrate No.VI, Madurai.
- (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/-

13/11/2017

/ TRUE COPY /



1 THE IV ADDITIONAL SESSIONS JUDGE, MADURAI

2 THE JUDICIAL MAGISTRATE NO.VI, MADURAI

3 THE CHIEF JUDICIAL MAGISTRATE, MADURAI

4 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI

5 THE INSPECTOR OF POLICE
THRUPPARANKUNDRAM POLICE STATION,
MADURAI CITY

6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. C.C. to M/S.C.PRABHAKARAN Advocate SR.No.34280

ORDER
IN
CRL MP (MD) No.7818 of 2017
IN
CRL A (MD) No.337 of 2017
Date :13/11/2017

SMA/RR/SAR-2/20.11.2017:3P/8C