



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

Wednesday, the Twentieth day of September Two Thousand Seventeen

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PRESENT

The Hon`ble Mr.Justice M.M.SUNDRESH
and
The Hon`ble Mr.Justice N.SATHISH KUMAR

CRL MP(MD) No.8140 of 2017
IN
CRL A(MD) No.350 of 2017

RAMESH

... APPELLANT/ ACCUSED SOLE

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
MARTHANDAM POLICE STATION,
KANYAKUMARI DISTRICT.
(IN CRIME NO.161 OF 2015)

... RESPONDENT/ COMPLAINANT

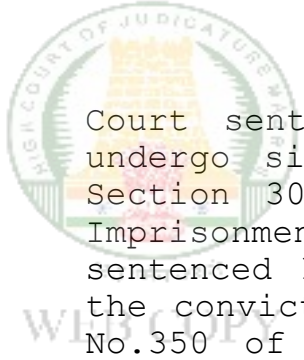
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence awarded to the petitioner and release him on bail pending disposal of the main Criminal Appeal before this Honourable Court against the Judgment of the Honourable Sessions Court, Kanyakumari District at Nagercoil in S.C.No.118 of 2015 dated 08.03.2017.

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

(Order of the Court was made by **M.M.SUNDRESH.J.,**)

This petition has been filed praying to suspend the sentence imposed against the petitioner in Session Case No.118 of 2015 by the learned Sessions Judge, Kanyakumari District at Nagercoil and to enlarge him on bail.

2.The petitioner is arrayed as sole accused in S.C.No.118 of 2015, wherein the petitioner has been charged for the offence under Sections 341, 294(b), 302 and 506(ii) of IPC and found guilty and convicted him under Sections 341, 294(b), 302 and 506(ii) of IPC. For the offence under Section 341 IPC, the trial Court sentenced him to pay a fine of Rs.100/-, in default, to undergo one week simple Imprisonment; for the offence under Section 294(b) IPC, the trial



Court sentenced him to pay a fine of Rs.100/-, in default, to undergo simple imprisonment for one week; for the offence under Section 302 IPC, the trial Court sentenced him to undergo Life Imprisonment; for the offence under Section 506(ii) the trial Court sentenced him to undergo two years Rigorous Imprisonment. Against the conviction and sentence passed by the trial Court, CrI.A.(MD). No.350 of 2017 has been filed and pending appeal, in order to suspend the sentence, the present Miscellaneous Petition is filed.

3.The case of the prosecution is that the deceased was having affair with PW8, who is none other than the sister-in-law of the petitioner/accused. Despite the warning, the deceased used to meet PW8. Therefore, the petitioner attacked the deceased with a knife and committed the alleged offence.

4.The learned counsel for the petitioner would submit that P.Ws.2,3,6 & 8 turned hostile. Even P.W.4 has also turned hostile. There are discrepancies in the evidence of PW2, who is none other than the co-brother of the deceased. He further submitted that the petitioner is in incarceration for more than two and a half years and prayed for suspension of sentence.

5.The learned Additional Public Prosecutor would submit that considering the evidence of P.W.1, the trial Court has rightly rendered the conviction and no interference is required and considering the nature of injury sustained, this petition will have to be dismissed.

6. Considering the above facts and taking note of the fact that there are some arguable points are involved in this criminal appeal and considering the period of incarceration undergone by the petitioner and also the fact that PWs.2, 3, 6 and 8 have also turned hostile, we are inclined to grant suspension of the sentence.

7. In fine, this petition is ordered and the sentence imposed against the petitioner in S.C.No.118 of 2015 by the learned Sessions Judge, Kanyakumari District at Nagercoil is alone suspended till the disposal of Criminal Appeal No.350 of 2017 and the petitioner will be released on bail on executing a bond for a sum of Rs.10,000/- and two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.1, Kuzhithurai and on further condition that the petitioner shall appear before the said Court on the first working day of every English Calendar month at 10.30 a.m until further orders.

sd/-
20/09/2017

/ TRUE COPY /



TO

1. THE SESSIONS JUDGE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
 2. THE JUDICIAL MAGISTRATE NO.1, KUZHITHURAI.
 3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
 4. THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
 5. THE INSPECTOR OF POLICE,
MARTHANDAM POLICE STATION, KANYAKUMARI DISTRICT.
 6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S.R.ALAGUMANI Advocate SR.No.31258

ORDER
IN
CRL MP (MD) No.8140 of 2017
IN
CRL A (MD) No.350 of 2017
Date :20/09/2017

MS/PM-PN/SAR.2/25.09.2017/3P.8C