



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

Wednesday, the Twentieth day of September Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL MP (MD) No.8595 of 2017
IN
CRL RC (MD) No.739 of 2017

K.NAGARATHINAM,

... PETITIONER/APPELLANT/
ACCUSED

Vs

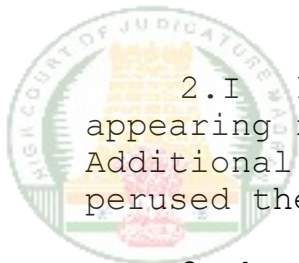
STATE REP.BY
THE INSPECTOR OF POLICE,
RAMANATHAPURAM BAZAR POLICE STATION,
RAMANATHAPURAM DISTRICT.
(CRIME NO.318/2008)

... 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 imposed on the petitioner/appellant/accused in C.A.No.3 of 2016 dated 12.07.2017 on the file of the Principal District and Sessions Court, Ramanathapuram confirming the order of conviction and modifying the sentence awarded in C.C.No.34 of 2014 dated 22.02.2016 the learned Chief Judicial Magistrate, Ramanathapuram till the disposal of the Revision Petition 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.R.VENKATESWARAN, Advocate for the petitioner and of MR.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor for the Respondent while admitting the Crl.Rc. the court made the following order:-

The petitioner stood convicted for an offence under Section 304 (A) I.P.C and sentenced to undergo three months simple imprisonment and also a fine of Rs.3,000/-, in default to undergo two months simple imprisonment in C.C.No.34 of 2014, on the file of the learned Chief Judicial Magistrate Court, Ramanathapuram. Challenging the same, he preferred an appeal in C.A.No.3 of 2006 on the file of the Principal District and Sessions Judge, Ramanathapuram. The lower appellate court dismissed the appeal, by confirming the conviction and sentence passed by the trial court. Challenging the conviction and sentence, the petitioner has filed Crl.R.C(MD).No.739 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.R.Venkateswaran, the learned Counsel appearing for the petitioner and Mr.C.Mayilvahan 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.W.3 is the only eye witness to the occurrence. The vehicle involved is a lorry loaded with sand. While the petitioner as a driver was taking the lorry in the reverse side, the deceased was standing behind the lorry, as a load man and hence, the petitioner is no way responsible for the accident and he has not driven the lorry in rash and negligent manner. Both the courts below, without considering the evidence in proper perspective, convicted and sentenced the petitioner.

4.The learned Additional Public Prosecutor submitted that the petitioner is the driver of the lorry, in which the deceased was the load man and while the petitioner taking the lorry in reverse side, without seeing the deceased standing behind the lorry, ran over the deceased and caused the accident. The courts below, after considering the evidence available on record, have rightly convicted the petitioner/appellant. Thus, he opposed to grant suspension of sentence.

5.I have considered the rival submissions.

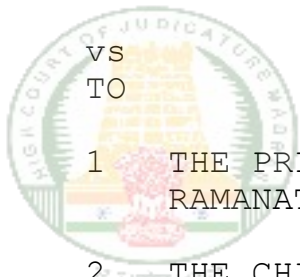
6.Considering the facts and circumstances of the case and since there are some arguable points involved in the revision and it may take a long time for taking up the revision for hearing, I am constrained to suspend the sentence of imprisonment alone imposed against the petitioner.

7.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 Chief Judicial Magistrate, Ramanathapuram, with a further condition that the petitioner shall report before the committal Court on the first working day of every English Calendar month at 10.30 a.m., till the disposal of the revision or until further orders.

sd/-
20/09/2017

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



vs
TO

1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
RAMANATHAPURAM

2 THE CHIEF JUDICIAL MAGISTRATE
RAMANATHAPURAM

3 THE INSPECTOR OF POLICE,
RAMANATHAPURAM BAZAR POLICE STATION,
RAMANATHAPURAM DISTRICT.

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

+1. C.C. to M/S.R.VENKATESWARAN Advocate SR.No.31038

GJM/RR/BS/SAR-3-22.9.17-3P-6C

ORDER
IN
CRL MP (MD) No.8595 of 2017
IN
CRL RC (MD) No.739 of 2017
Date :20/09/2017 (1/2)