



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

Wednesday, the Twenty Fifth day of October Two Thousand Seventeen

PRESENT

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

CRL MP (MD) No.9565 of 2017
IN
CRL A (MD) No.418 of 2017

ARIVAZHAGAN

... PETITIONER/APPELLANT/
ACCUSED (SOLE)

Vs

THE STATE REPRESENTED BY,
THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUVIDAIMARUTHUR SUB DIVISION,
THANJAVUR DISTRICT, (CRIME NO.208/2014,
REG.AT THIRUPANANDAL POLICE STATION,
THANJAVUR DISTRICT)

... RESPONDENT/RESPONDENT/
COMPLAINANT

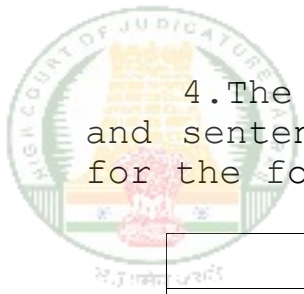
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to enlarge the petitioner on bail by suspending the sentence imposed by the Learned I Additional District and Sessions Judge (PCR), Thanjavur in S.S.C.No.89/2016 dated 06/10/2017 pending disposal of the above Crl.A

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.S.M.ANANTHA MURUGAN, Advocate for the petitioner and of MR.T.MOHAN, Additional Public Prosecutor for the Respondent while admitting the Crl.A the court made the following order:-

The petitioner who is the sole accused in S.S.C.No.89 of 2016 on the file of the learned I Additional District and Sessions Judge (PCR), Thanjavur, while challenging his conviction and sentence, seeks appeal bail under Section 389(1) Cr.P.C.

2. After trial, the petitioner has been convicted and sentenced and the petitioner paid the fine amount.

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



4.The Criminal Appeal is preferred against the conviction and sentence passed by the Trial Court against the petitioner for the following offences:

Conviction	Sentence
S.452 IPC	3 years RI + Rs.3,000/- fine i/d. 6 Months SI
S.354 IPC r/w. Section 3 (2) (va) of SC/ST (POA) Amendment Ordinance	1 year RI + Rs.2,000/- fine i/d. 3 Months SI
3(1) (w) (i) of SC/ST (POA) Amendment Ordinance	3 years RI + Rs.5,000/- fine i/d. 6 Months SI

The accused shall undergo the imprisonment concurrently. The trial Court has suspended the sentence, as per the order in CrI.M.P.No.2266 of 2017, dated 06.10.2017 from 6.10.2017 to 06.11.2017.

5.The learned counsel for the petitioner submitted that there are very many legal infirmities in the conviction recorded by the Trial Court and they are required to be revised. He further submitted that except PW.1, 2 and 14 other official witnesses have been declared as hostile witnesses and they have not supported the prosecution. He further contended that PW.1, 2 and 14 are the mother and sisters of the de facto complainant. The learned counsel for the petitioner further submitted that there is *prima facie* case in favour of the petitioner for acquittal in this appeal.

6.The learned Additional Public Prosecutor appearing for the respondent submitted that the court below has rightly convicted the petitioner 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.

7.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 on the following conditions:

(i) Appeal bail is granted.

<https://hcservices.ecourts.gov.in/hcservices/>

(ii) Substantial sentence alone is suspended on



condition that the 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 I Additional District and Sessions Judge (PCR), Thanjavur.

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(iii) The petitioner shall appear before the Court concerned on the first working day of every month at 10.30 a.m., until further orders.

sd/-
25/10/2017

/ TRUE COPY /

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

TRP
TO

- 1 THE I ADDITIONAL DISTRICT
AND SESSIONS JUDGE, (PCR) THANJAVUR
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUVIDAIMARUTHUR SUB DIVISION,
THANJAVUR DISTRICT,
REG.AT THIRUPANANDAL POLICE STATION,
THANJAVUR DISTRICT)
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.S.M.ANANTHA MURUGAN Advocate SR.No.33162

GJM/PM/PN/SAR-I-27.10.2017-3P-5C

ORDER
IN
CRL MP (MD) No.9565 of 2017
IN
CRL A (MD) No.418 of 2017
Date :25/10/2017 (1/2)