



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

Friday, the Third day of November Two Thousand Seventeen

PRESENT

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

CRL MP(MD) No.9940 of 2017
IN
CRL RC(MD) No.804 of 2017

BALAMURUGAN

... PETITIONER/PETITIONER

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
MALLI POLICE STATION, VIRUDHUNAGAR DISTRICT.
CRIME NO.79/2009

... 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 imposed by the court of the Principal District Judge, Virudhunagar District at Srivilliputhur in Crl.A.No.101/2010 on 20/02/2017 in confirming the conviction and sentence imposed by the Judicial Magistrate Court No.II, Srivilliputhur in C.C.No.122/2009 on 25/08/2010 pending disposal of the above Crl.R.C

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

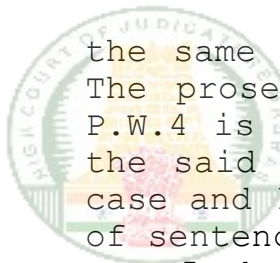
The petitioner / sole accused in C.C.No.122 of 2009 on the file of the learned Judicial Magistrate Court No.II, Srivilliputtur, dated 25.08.2010 while challenging his conviction and sentence, seeks revision bail under Section 397(1) Cr.P.C.

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

Conviction	Sentence
Section 304 (a) of IPC	1 year S.I. + Fine of Rs.3,000/- i/d 3 months S.I.

3.The fine amount was paid by the petitioner herein. The petitioner preferred the revision against the order of dismissal passed by the Principal District Judge, Virudhunagar District at Srivilliputtur, confirming the judgment of the Trial Court.

4.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 P.W.1 to P.W.3, who are the eye witnesses in this case, have not identified the accused as the driver of the vehicle on the date of occurrence. P.W.4, who is the owner offending vehicle, stated that the accused is the driver of the vehicle and



the same is denied by the petitioner during his cross examination. The prosecution has not chosen to file any document to show that P.W.4 is the owner of the vehicle and the accused is the driver of the said vehicle. Therefore, the petitioner is having prima facie case and having arguable points in his favour and seeks suspension of sentence during the pendency of the revision.

5. The learned Additional Public Prosecutor submitted that the Trial Court has rightly convicted the petitioner on the basis of the evidence adduced by the prosecution and there is no prima facie case in this revision. However, he has no objection to grant order of suspension.

6. 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 revision. They are required to be examined in detail in the main criminal revision. On considerations, this petition is ordered as under:

- (i) Revision bail is granted.
- (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 Judicial Magistrate Court No.II, Srivilliputtur.
- (iii) The petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m., until further orders.
- (iv) The petitioner is directed to deposit a sum of Rs.19,800/- before the III Additional District and Sessions Court, Tirunelveli.

sd/-

03/11/2017

/ TRUE COPY /

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

TO

- 1 THE PRINCIPAL DISTRICT JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 2 THE III ADDITIONAL DISTRICT AND SESSION JUDGE, TIRUNELVELI.
- 3 THE JUDICIAL MAGISTRATE NO.II, SRIVILLIPUTTUR.
- 4 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.
- 5 THE INSPECTOR OF POLICE,
MALLI POLICE STATION, VIRUDHUNAGAR DISTRICT.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.M.JOTHIBASU Advocate SR.No.33826

ORDER IN

CRL MP(MD) No.9940 of 2017 IN

CRL RC(MD) No.804 of 2017

Date :03/11/2017