



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

Tuesday, the Twenty Fourth day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice C.T.SELVAM

and

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

CRL MP (MD) No.1167 of 2018

IN

CRL A (MD) No.482 of 2017

1 SATHEESH KUMAR

2 SANKAR

... PETITIONERS/APPELLANTS/ACCUSED NO.1&3

Vs

THE STATE REP.BY,

THE INSPECTOR OF POLICE

ARIYAMANGALAM POLICE STATION, TRICHY

(CRIME NO.450/2014)

... 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 petitioners by the III Additional District and Sessions Judge (FAC), Trichy in S.C.NO. 114 of 2015 dated 06.11.2017 and release the petitioners on bail pending disposal of the above 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.T.SENTHIL KUMAR, Advocate for the petitioner and of MR.R.ANANDRAJ, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

[Order of the Court was delivered by **C.T.SELVAM, J.**]

The petitioners/appellants are the accused Nos.1 and 3 in S.C.No.114 of 2015, on the file of learned III Additional District & Sessions Judge (Fast Track Court), Tiruchirappalli. They have been convicted and sentenced as follows:

Penal provisions	Punishment
Under Section 449 of IPC	To undergo rigorous imprisonment for ten years with a fine of Rs.5,000/-, in default, to undergo rigorous imprisonment for one year.
302 of IPC	To undergo imprisonment for life with fine of Rs.5,000/-, in default, to undergo rigorous imprisonment for one year.



Challenging the said conviction and sentence imposed, the petitioners/accused Nos.1 and 3 have come up with this appeal. Pending appeal, they seek suspension of the substantive sentence of imprisonment imposed on them.

2. We have heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the State and we have also perused the records carefully.

3. The main contention raised by the learned counsel for the petitioners/accused Nos.1 and 3 is that according to the case of the prosecution, P.W.1, the de facto complainant is a person, who is familiar with A1 to A3 even prior to the occurrence and that the First Information Report discloses the name of the first accused alone and the name of the accused Nos.2 and 3 do not find place in the First Information Report. This circumstance, according to the learned counsel for the petitioners/accused Nos.1 and 3 is an indication to the fact that at the earliest point of time, A2 and A3 were not in the picture and they have been included by way of afterthought and taking time for planning the prosecution case.

4. This aspect of the matter was specifically put to the learned Additional Public Prosecutor appearing for the State as to whether there is any explanation for non-mentioning of the name of A2 and A3 in the First Information Report, but ,no specific answer could be given by the prosecution, as the investigating officer has not collected any information.

5. Under the stated circumstances, we feel it appropriate to grant suspension of sentence to the petitioner/accused No.3. However, considering the overt act attributed against the accused No.1, this Court is not inclined to suspend the sentence imposed on him.

6. In the result, this Criminal Miscellaneous Petition is dismissed as withdrawn in respect of the first accused alone. This petition is allowed and the substantive sentence of imprisonment imposed on the petitioner/accused No.3 is suspended and the petitioner/accused No.3 is directed to be enlarged on bail, on the following conditions:-

The petitioner/accused No. 3 shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.VI, Trichy and on further condition that the petitioner/accused No.3 shall report before the committal Court on the first working day of every month.

sd/-
24/04/2018

/ TRUE COPY /



TO

1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE
(FAST TRACK COURT), TIRUCHIRAPPALLI.

2 THE JUDICIAL MAGISTRATE NO.VI, TRICHY.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

5 THE INSPECTOR OF POLICE
ARIYAMANGALAM POLICE STATION, TRICHY.

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

+1. C.C. to M/S.T.SENTHIL KUMAR Advocate SR.No.6963

ORDER

IN

CRL MP (MD) No.1167 of 2018

IN

CRL A (MD) No.482 of 2017

Date :24/04/2018

MKV-CM-VR-GSR/28.4.2018/3P-8C