



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

Tuesday, the Tenth day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP (MD) No.1589 of 2018
IN
CRL A (MD) No.40 of 2018

1 N.KATHIRVEL
2 I.LOGANATHAN
3 N.JEGAN

... PETITIONERS/APPELLANTS

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
KENIKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.

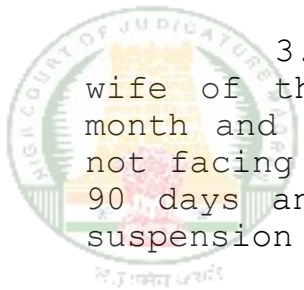
... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentences of the petitioners herein, which was imposed by the order dated 11.01.2018 passed in S.C.No. 94/2017 on the file of learned Additional District and Sessions court, Ramanathapuram

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.K.GOKUL, Advocate for the petitioners and of MR.K.SUYAMBULINGA BHARATHI, Government Advocate (Crl.side) on behalf of the Respondent the court made the following order:-

The petitioners/appellants are the accused in S.C.No.94 of 2017 on the file of the learned Additional District and Sessions Court, Ramanathapuram. They were convicted for the offence under Sections 450 and 395 r/w 397 of I.P.C and were sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default to undergo simple imprisonment for one month and was sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs.2,000/- and in default to undergo simple imprisonment for six months. Challenging the said conviction and sentence imposed by the trial Court, the petitioners have come up with this appeal. Pending appeal, they seek suspension of the substantive sentence of imprisonment imposed on them.

2.Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent and perused the records carefully.



3. On the side of the petitioners, it is stated that the wife of the second petitioner is expecting delivery in the next month and two of the connected accused were already absconding and not facing the trial and the petitioners are in custody for the past 90 days and hence, they have filed the present petition for the suspension of sentence imposed on them.

4. On the side of the respondent, it is stated that totally eight accused involved in the offence punishable under Sections 450 and 395 r/w 397 of I.P.C. P.W.1 to P.W.15 were examined. Ex.P.1 to Ex.P.35 were marked. P.W.1 to P.W.3 were the eye witnesses to the occurrence who have corroborated each other and the evidence of P.W.2 who is the witness for recovery clearly shows that all the accused namely, A2 to A4 and A6 to A8 except two absconding accused are identified by P.W.1 to P.W.3 during identification parade and objected to the release of the petitioners under suspension of sentence.

5. On the side of the petitioners medical documents produced which would show that the wife of the petitioner No.2/ Slochana, is pregnant and expecting delivery .

6. Considering the gravity of the offence and considering the submission of the learned Additional Public Prosecutor, this Court is not inclined to suspend the sentence imposed upon the 1st and 3rd petitioner. Accordingly, this petition is dismissed in respect of the 1st and third petitioners/A1 and A3 alone. However, this Court is inclined to suspend the sentence of imprisonment alone imposed on the second petitioner pending appeal. Accordingly, this petition is allowed and the substantive sentence of imprisonment imposed on the second petitioner alone is suspended and the second petitioner is directed to be enlarged on bail, on the following conditions:

The second petitioner 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 Additional District and Sessions Judge, Ramanathapuram and on further condition that the second petitioner shall report before the respondent police at 10.30 a.m., once in a week until further orders.

sd/-
10/04/2018

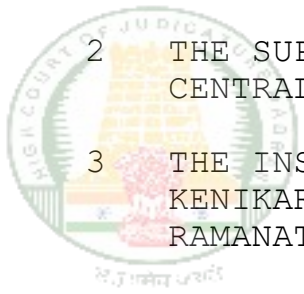
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,

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



2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

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

+1. C.C. to M/S.K.GOKUL Advocate SR.No.60500

ORDER
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IN
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Date :10/04/2018

MKV-CM-VR-GSR/11.4.2018/3P-6C