



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

Wednesday, the Seventh day of March Two Thousand Eighteen

PRESENT

The Hon`ble Dr.Justice S.VIMALA

and

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP (MD) No.11546 of 2017

IN

CRL A (MD) No.513 of 2017

SATHISHKUMAR
(C.P.22346)

... APPELLANT/ACCUSED NO.2

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
ARIYAMANGALAM POLICE STATION,
TIRUCHIRAPPALLI DISTRICT.
(IN CRIME NO.450 OF 2014)

... RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed by the III Additional District & Sessions Judge(FAC), Tiruchirappalli in S.C.No.114 of 2015 dated 06.11.2017 and enlarge the Appellants on bail pending disposal of the above said 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.S.M.A.JINNAH, Advocate for the petitioner and of MR.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

(Order of the Court was made by **S.VIMALA, J**)

The petitioner/appellant is the accused No.2 in S.C.No.114 of 2015 on the file of learned III Additional District & Sessions Judge (Fast Track Court), Tiruchirappalli. He has been convicted and sentenced as follows:

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



To undergo imprisonment for life with fine of Rs.5,000/-, in default, to undergo rigorous imprisonment for one month.

Challenging the said conviction and sentence imposed, the petitioner/accused No.2 has come up with this appeal. Pending appeal, he seeks suspension of the substantive sentence of imprisonment imposed on him.

2. We have heard the learned counsel for the petitioner 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 petitioner/accused No.2 is that according to the case of the prosecution, P.W.1, the defacto 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 petitioner/accused No.2 is an indication to the fact that at the earliest point of time, A2 and A3 were not in picture and they have been included by way of after thought and taking time for planning the prosecution case.

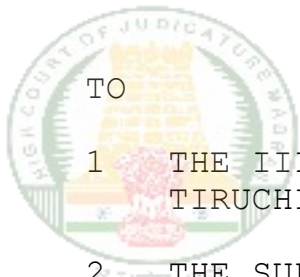
4. This aspect of the matter was specifically put to the learned Additional Public Prosecutor appearing for the State as to whether there is any explanation for non-mentioning of the name of A2 and A3 in the First Information Report, but no specific answer could be given by the prosecution, as the investigating 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.2. Accordingly, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner/accused No.2 is suspended and the petitioner/accused No. 2 is directed to be enlarged on bail, on the following conditions:

6. The petitioner/accused No.2 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 III Additional District & Sessions Judge (FAC), Tiruchirappalli and on further condition that the petitioner/accused No.2 shall report before the committal Court once in a week, on each Monday at 10.30 a.m.

sd/-
07/03/2018

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TO

1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE (FAC),
TIRUCHIRAPPALLI

2 THE SUPERINTENDENT,
CENTRAL PRISON, TIRUCHIRAPPALLI

3 THE INSPECTOR OF POLICE,
ARIYAMANGALAM POLICE STATION,
TIRUCHIRAPPALLI DISTRICT.

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

+1. C.C. to M/S.S.M.A.JINNAH Advocate SR.No.3606

ORDER

IN

CRL MP (MD) No.11546 of 2017

IN

CRL A (MD) No.513 of 2017

Date :07/03/2018

MKV-PM-PN-SAR 4/9.3.2018/3P-6C