



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

Wednesday, the Fourteenth day of March Two Thousand Eighteen

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PRESENT

The Hon`ble Dr.Justice S.VIMALA
and
The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.8797 of 2017

IN

CRL A(MD) No.391 of 2017

GANESAN @ AUTO GANESAN
NOW CONFINED AT
CENTRAL PRISON, MADURAI

... PETITIONER / APPELLANT /
ACCUSED No.4

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
B3 THEPPAKULAM POLICE STATION,
MADURAI CITY, MADURAI
(CRIME NO.391/2013

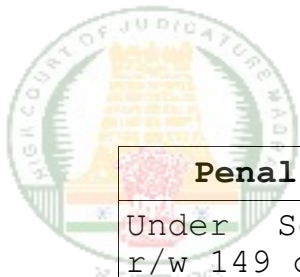
... RESPONDENT / RESPONDENT /
COMPLAINANT

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 in Judgement dated 10/08/2017 passed in S.C.No.399/2014 on the file of the IV Additional District and Sessions Court, Madurai and enlarge him on bail pending disposal of the instant Crl.A.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.J.LAWRANCE, Advocate for the petitioner and of Mr.M.CHANDRASEKARAN, 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.4 in S.C.No.399 of 2014 on the file of learned IV Additional District Judge, Madurai. He has been convicted and sentenced as follows:



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Penal provisions	Punishment
Under Section 364 (A) r/w 149 of IPC	To undergo imprisonment for life with a fine of Rs.5,000/-, in default, to undergo simple imprisonment for three months.
Under Section 386 r/w 149 of IPC	To undergo rigorous imprisonment for five years with fine of Rs.5,000/-, in default, to undergo simple imprisonment for three months.
Under Section 395 r/w 149 of IPC	To undergo rigorous imprisonment for five years with fine of Rs.5,000/-, in default, to undergo simple imprisonment for three months.
Under Section 506(2) r/w 149 of IPC	To undergo simple imprisonment for two years and no fine is imposed.

Challenging the said conviction and sentence imposed, the petitioner/accused No.4 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.

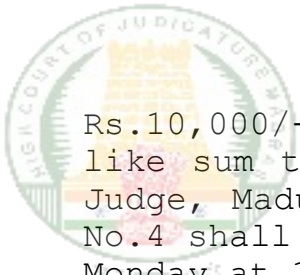
3. According to the petitioner/appellant/accused, he is the person, who is physically challenged with 90% disability, even as certified by the Assistant Surgeon, Government Head Quarters Hospital, Tirupur. It is issued for conferment of benefit under the enactment of the 'Persons with Disabilities Act'.

4. Under the said circumstances, it is contended that a person, with 90% disablement is not likely to drive, as alleged by the prosecution and the entire prosecution is based upon the fact that the petitioner/appellant/accused was driving the vehicle at the time of incident and that it cannot be true.

5. Considering the disability certificate issued by the Medical Board as well as considering that he could not have been a driver with 90% disability and also considering that the person with 90% disability may not be able to create any harm to the Society when he is outside the prison premises, we feel it appropriate that the sentence imposed upon the petitioner/accused No.4 shall be suspended. Accordingly, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner/accused No.4 is suspended and the petitioner/accused No.4 is directed to be enlarged on bail, on the following conditions:

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

6. The petitioner/accused No.4 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 IV Additional District Judge, Madurai and on further condition that the petitioner/accused No.4 shall report before the committal Court once in a week, on each Monday at 10.30 a.m.

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sd/-
14/03/2018

/ TRUE COPY /

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

TO

- 1 THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE,
MADURAI
- 2 THE INSPECTOR OF POLICE
B3 THEPPAKULAM POLICE STATION,
MADURAI CITY, MADURAI
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI
- 4 THE SUPERINTENDENT, CENTRAL PRISON,
MADURAI

+1. C.C. to M/S.J.LAWRANCE Advocate SR.No.4194

RJ2
JAM/16/03/2018/MM-PN / SAR 4/ 3P-6C

ORDER
IN
CRL MP(MD) No.8797 of 2017
IN
CRL A(MD) No.391 of 2017
Date :14/03/2018