



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

Thursday, the Twenty Eighth day of June Two Thousand Eighteen

WEB COPY

PRESENT

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

CRL MP (MD) No.3177 of 2018

AND

MP (MD) NO.1 OF 2011

IN

CRL A (MD) No.299 of 2007

J.VIJAYAKUMAR

... PETITIONER/APPELLANT/
ACCUSED NO.2
IN BOTH THE PETITIONS

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
CBCID, CC WING, CHENNAI
CR.NO.1/2000

... RESPONDENT/RESPONDENT/
COMPLAINANT
IN BOTH THE PETITIONS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to restore the Criminal Appeal In C.A(MD)No. 299/2007 which has been disposed of for non-prosecution on 26.02.2018, for adjudicating the same on merits

Prayer in MP (MD). 1/ 2011 in CRL A (MD).299/2007 :

To condone the absence of the petitioner on a single day i.e 01.04.2011 in complying the condition imposed by this Honourable court in MP (MD) No. 1/2007 in CA No. 299/2007 dated 12.07.2007 and permit the petitioner to comply with the said condition in further pursuant to the said order.

PRAYER IN CRL A (MD) No.299 of 2007:

Memorandum of Grounds of Criminal Appeal against the conviction and sentence passed by the learned Additional District and Sessions Judge (Fast Track Court No.III), Madurai, Madurai District in S.C.No.389 of 2006 vide his Judgment dated 29.06.2007 by convicting the appellant under Section 120(B) read with 489(A) (C) (D) of IPC and sentenced him to undergo 5 years R.I. and to pay a fine of Rs.3000/- in default to undergo 6 months R.I and further convicting him under Section 489(A) of IPC and sentenced him to undergo 5 years R.I. and to pay a fine of Rs.3000/- in default to undergo 3 months R.I. and further convicting him under Section 489(C) of IPC and sentenced him



to undergo 3 years R.I and to pay a fine of Rs.1000/- in default to undergo 3 months and further convicting him under Section 489(D) of IPC and sentenced him to undergo 7 years R.I and to pay a fine of Rs.5000/- in default to undergo 6 months R.I.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.R.ANAND, Advocate for the petitioner in both the petitions and of Mr.M.ASOKAN, Government Advocate (Crl.Side) for the Respondent in both the petitions the court made the following order:-

The Petition in Crl.M.P(MD)No.3177 of 2018 has been filed praying to restore the Criminal Appeal in C.A(MD)No.299 of 2007, which has been dismissed for non-prosecution on 26.02.2018.

2. The Petition in M.P(MD)No.1 of 2011 has been filed praying to permit the petitioner to comply with the condition imposed by this Court in M.P(MD)No.1 of 2007 in C.A.(MD)No.299 of 2007, dated 12.07.2007.

3. Heard the learned counsel for the petitioner / appellant.

4. Report, dated 23.06.2018, has been received from the learned Judicial Magistrate No.1 (FAC), Madurai, reveals the fact that the petitioner / appellant is regularly complying with the conditions imposed by this Court in M.P(MD)No.1 of 2007 in Crl.A(MD)No.299 of 2007 to till date.

5. Reason for dismissal is perused. The present appeal is preferred against the order of conviction passed by the trial Court and without hearing the appellant, the Criminal Appeal was dismissed for default by this Court. The order of dismissal was passed without affording sufficient opportunity and time and also without hearing the parties. Hence, this petition is allowed, restoring the appeal, which was dismissed on 26.02.2018, in the interest of justice.

6. Registry is directed to list the appeal for final hearing.

7. In view of the order passed in Crl.M.P(MD)No.3177 of 2018, the M.P(MD)No.1 of 2011 is closed and the petitioner is directed to continue to appear before the said Magistrate Court on every Monday at 10.30 a.m., till the disposal of the appeal and the order of suspension of sentence passed by this Court stands to continue.

sd/-

28/06/2018

/ TRUE COPY /



TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE
(FACT TRACK COURT NO.III) MADURAI, MADURAI DISTRICT

2 THE INSPECTOR OF POLICE, CBCID, CC WING, CHENNAI.

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

GJM/JC/RNB/05.07.2018-3P-4C

ORDER

IN

CRL MP (MD) No.3177 of 2018
AND MP (MD) NO.1 OF 2011

IN

CRL A (MD) No.299 of 2007
Date :28/06/2018