



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

Thursday, the Tenth day of May Two Thousand Eighteen

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP (MD) No.3590 of 2018
IN
CRL A (MD) No.232 of 2018

YASIN MOHAMED

... APPELLANT/ACCUSED

Vs

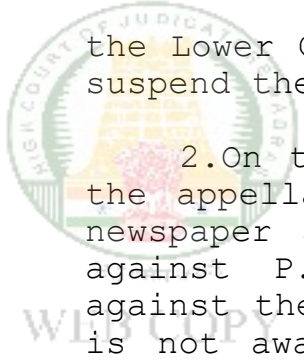
STATE REPRESENTED BY
THE INSPECTOR OF POLICE
THIRUPPARANKUNDRAM POLICE STATION,
MADURAI,
CRIME NO.516/2016

... 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 Learned V Additional District and Sessions Judge, Madurai in S.C.No.565/2016 dated 24/04/2018 and enlarge the Appellant on bail pending disposal of the above Crl.A.

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.K.SUYMABULINGA BHARATHI, Government Advocate(Crl.side) on behalf of the Respondent, while admitting the CRL A, the court made the following order:-

The case against the appellant is that on 14.10.2016, when the defacto complainant along with his brother was going to Thiruparankundram Subramaniasamy Temple, near 16 Kal Mandapam, the appellant / accused demanded money from the defacto complainant and on his refusal, threatened him on knife point and forcibly taken away a sum of Rs.300/- (Rupees Three Hundred Only) from his pocket. The case under Section 392 r/w 397 and 506(ii) IPC registered against the appellant and the case was taken on file as S.C.No.565 of 2016 and the learned V Additional District and Sessions Judge, Madurai found the appellant guilty of the offence and convicted him and sentenced him under Section 392 IPC to undergo rigorous imprisonment for eight years and to pay a fine of Rs.10,000/- (Rupees Ten Thousand Only) and in default of payment of fine he shall undergo simple imprisonment for three months and further sentenced him under Section 506(i) IPC to undergo rigorous imprisonment for one year and to pay a fine of Rs.5000/- (Rupees Five Thousand Only) and in default of payment of fine he shall undergo simple imprisonment for one month. Against the judgment of



the Lower Court, this appeal is filed and this petition is filed to suspend the sentence till the disposal of the appeal.

2. On the side of the appellant / accused, it stated that when the appellant is juvenile, P.W.7 published his photographs in the newspaper and when the father of the appellant filed a complaint against P.W.7 / investigation officer, P.W.7 developed enmity against the petitioners. It is further stated that the complainant is not aware of the name of the accused at the time of alleged occurrence and only after hearing from the police he recorded the name of the accused in the complaint. The evidence of P.W.1 and P.W.4 clearly shows that only at the instigation of the police, the complainant has incorporated the name of this appellant. It is further stated that there are so many infirmities in the trial and there are arguable points for the appellant in the appeal and prayed the sentence imposed on the appellant to be suspended till the appeal is disposed.

3. On the side of the respondent it is stated that the prosecution has examined P.Ws.1 to 17 and marked Exs.P1 to 8 and M.O.1 and the evidence of P.W.1 is supported by the evidence of P.Ws.2 and 3, who are the eye witnesses and evidence of P.W.1 is supported by the evidence of P.W.4 recovery witness. It is further stated that the appellant is having 25 previous cases out of which 2 cases are under Section 302 IPC. Hence, he strongly opposed for suspension of sentence imposed on the appellant. On the side of the petitioner, it is stated that out of the 25 cases 17 cases were ended in acquittal and other cases are pending in the stage of F.I.R..

4. Records perused.

5. Whether the appellant is having sufficient reasons to reconsider the judgment of the lower Court, can be considered only on appreciation of Appeal and cannot be considered at this stage. Pendency of so many cases against the appellant is not denied by the appellant. In this circumstances, this Court is not inclined to suspend the sentence imposed on the appellant at this stage.

6. In the result, this miscellaneous petition for suspending the sentence imposed on the appellant is dismissed.

sd/-
10/05/2018

/ TRUE COPY /

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



TO

1 THE V ADDITIONAL DISTRICT AND
SESSIONS JUDGE, MADURAI

2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI

3 THE INSPECTOR OF POLICE
THIRUPPARANKUNDRAM POLICE STATION, MADURAI,

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

ORDER

IN

CRL MP (MD) No.3590 of 2018

IN

CRL A (MD) No.232 of 2018

Date :10/05/2018

SMA/CM/RNB/16.05.2018:3P/5C