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

Thursday, the Second day of August Two Thousand Eighteen
PRESENT

The Hon`ble Mr.Justice C.T.SELVAM

and

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

CRL MP(MD) No.5506 of 2018
IN CRL A(MD) No.316 of 2018

1 RAVI
2 CHELLAMMAL
3 MARIMUTHU

... PETITIONERS/ APPELLANTS

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
CBCID, PUDUKKOTTAI.
(CRIME NO.56 OF 2007 ON THE FILE OF THE NAGUDI POLICE STATION,
PUDUKKOTTAI DISTRICT)

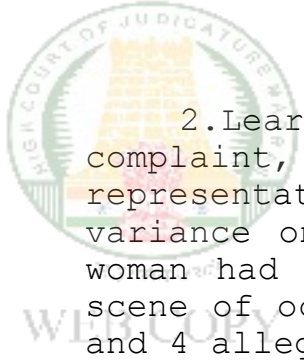
... RESPONDENT/ RESPONDENT

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 against us in SC.NO.193/2008 dated 16.02.2018 passed by the learned Additional District judge, Pudukkottai and enlarge the petitioner on bail pending disposal of main Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.A.R.L.SUNDARESAN, Senior Counsel for Mr.J.ANANDAKUMAR, Advocate for the petitioners and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

[Order of the Court made by **C.T.SELVAM, J.**]

Petitioners are arrayed as accused Nos.1, 4 and 6 in S.C.No.193 of 2008 on the file of learned Additional District and Sessions Judge, Pudukkottai, and under judgment dated 16.02.2018 they have been convicted for offences u/s.148, 149, 302 and 307 r/w 323, 149 IPC and sentenced to undergo 3 years R.I. for the offence under Section 148 of IPC and life imprisonment for the offence under Section 302 r/w 149 IPC and to pay a fine of Rs.10,000/- i/d to undergo 2 years S.I. and 10 years R.I. for the offence under Section 307 IPC (2 counts) and to pay a fine of Rs.1,000/- for the offence under Section 323 r/w 149 IPC i/d to undergo 3 months S.I. Petitioners have come forward with the above miscellaneous petition seeking relief of suspension of sentence pending appeal.



2.Learned Senior Counsel for petitioners submitted that Ex.P.1, complaint, leading to the registration of FIR and Ex.P.25 representation made to the Collector both by P.W.1, inform much variance on time and place of occurrence the submitted that A5, a woman had suffered injury on the head and fell unconscious at the scene of occurrence. The evidence of P.W.3 was that she and P.Ws.2 and 4 alleged eye witnesses, went to the scene after the occurrence, P.W.3 explaining away the injury on A5 as one incurred when A3 sought to deal a blow on the prosecution party, is not trustworthy as she particularly has informed the place of occurrence to be a desolated place, where there was no light. He submitted that in cross complaint has been closed as mistake of fact, but investigation therein, had been conducted by the local police agency whereas, investigation in the case against the accused had been effected by CBCID. Submitting as above, learned Senior Counsel prays for the grant of relief of suspension of sentence to petitioners herein.

3.Per contra, learned Additional Public Prosecutor relying on counter filed by the respondent strongly informing the prosecution has established its case beyond all reasonable doubt and the minor discrepancies found in the evidence of the prosecution witnesses will not affect the prosecution case in its entirety. He strongly opposed to the grant of the relief of suspension of sentence to petitioners.

4.Considering the facts and circumstances of the case, that it is not possible for the Court to take the Criminal Appeal in the nearest future, that there are arguable points and according to learned counsel for petitioners, there are several infirmities in the prosecution case in respect of petitioners, we are of the considered view that it is a fit case to grant the relief of suspension of sentence to petitioners herein. Keeping in view of these facts, we are inclined to suspend the substantive portion of sentence imposed on petitioners.

5.Accordingly, the **substantive sentence of imprisonment alone is suspended in respect of petitioners** and they are directed to be enlarged on bail on condition that they shall execute a bond in a sum of Rs.10,000/- [Rupees ten thousand only] with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Alangudi, and on further condition that petitioners shall report before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

sd/-
02/08/2018

/ TRUE COPY /



TO

1. THE ADDITIONAL DISTRICT JUDGE, PUDUKKOTTAI.
 2. THE JUDICIAL MAGISTRATE, ALANGUDI.
 3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
PUDUKKOTTAI DISTRICT.
 4. THE INSPECTOR OF POLICE, CBCID, PUDUKKOTTAI.
 5. THE INSPECTOR OF POLICE,
NAGUDI POLICE STATION, PUDUKKOTTAI DISTRICT
 6. THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
 7. THE OFFICER INCHARGE, SPECIAL PRISON FOR WOMEN,
GANDHI MARKET, TRICHY.
 8. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to MR.J.ANANDAKUMAR Advocate SR.No.14841

ORDER
IN
CRL MP (MD) No.5506 of 2018
IN
CRL A (MD) No.316 of 2018
Date :02/08/2018

MS/PN/SAR-4/03.08.2018/3P.10C