



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

Thursday, the Twenty Sixth day of July Two Thousand Eighteen
PRESENT

The Hon`ble Mrs.Justice R.THARANI

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CRL MP(MD) Nos.5925 and 5926 of 2018
IN CRL RC(MD) No.416 of 2018

KANNAN

... PETITIONER/ PETITIONER
IN BOTH THE PETITIONS

Vs

STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
PARAMAKUDI TOWN, NAINARKOVIL POLICE STATION,
RAMANATHAPURAM DISTRICT.
CRIME NO.140/2007

... RESPONDENT/ RESPONDENT
IN BOTH THE PETITIONS

PRAYER IN CRL MP(MD)No.5925 of 2018 in CRL RC(MD) No.416 of 2018:

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 the petitioner in C.A.No.5/2018 dated 28/06/2018 on the file of Learned Principal District & Sessions Court, Ramanathapuram modifying the order of conviction in C.C.No.139/2009 dated 05/03/2018 on the file of the Judicial Magistrate No.II, Ramanathapuram and enlarge the petitioner on bail pending disposal of the above Crl.R.C.

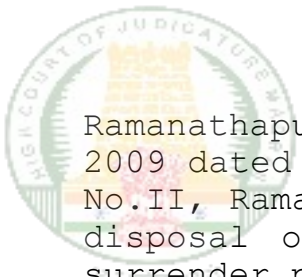
Prayer in CRL MP(MD) . 5926/ 2018 in CRL RC(MD) No.416 of 2018:

To grant exemption to the petitioner from surrendering in C.A.No.5/2018 dated 28/06/2018 on the file of Learned Principal District & Sessions Court, Ramanathapuram modifying the order of conviction in C.C.No.139/2009 dated 05/03/2018 on the file of the Judicial Magistrate No.II, Ramanathapuram and enlarge the petitioner on bail pending disposal of the above Crl.R.C.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.M.SUBASH BABU, Advocate for the petitioner in both the petitions and of Mr.K.SUYAMBULINGA BHARATHI Government Advocate on behalf of the Respondent in both the petitions, the court made the following order:-

Heard Mr.M.Subash Babu, learned counsel appearing for the petitioner and Mr.K.Suyambulinga Bharathi, learned Government Advocate for the respondent.

2. These petitions are filed to suspend the sentence imposed against the petitioner in C.A.No.5/2018, dated 28.06.2018 on the file of the learned Principal District and Sessions Judge,



Ramanathapuram modifying the order of conviction in C.C.No.139 of 2009 dated 05.03.2018 on the file of the learned Judicial Magistrate No.II, Ramanathapuram and to enlarge the petitioner on bail till the disposal of the Criminal Revision Case and for exemption of his surrender pursuant to the aforesaid Judgment.

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3.The case of the prosecution is that on 19.10.2005, a theft case was lodged by one Jeyarani (PW-6), on receiving the complaint P.W-10 has registered the case in Crime No.186 of 2007 for the offence punishable under Sections 454 and 380 of I.P.C. During the course of enquiry PW-1, one Car Selvam, Chandrasekaran, Selvam and Rasu were forcibly taken to the police station for enquiry and later the others were released. The next day, i.e. On 20.12.2005, the petitioner tied the hand, leg of P.W-1 and slapped his cheek and assaulted him with lathe and also kicked him with boots. Due to which, P.W.1 sustained injuries and he took treatment in Nainarkovil Paisool Karunai Hospital and then he was taken to Sujatha Clinic at Paramakudi and he was admitted in Government Hospital, Paramakudi and for better treatment he was shifted to Madurai Rajaji Hospital. Thereafter, P.W.1 sent a complaint to the Superintendent of Police and the case was registered against the petitioner in Crime No.140 of 2007, for the offences under Sections 330, 343, 348, 352, 506(ii) and 307 of I.P.C. After completing investigation a charge sheet was filed against the petitioner and the same was taken on file in C.C.No.139 of 2009 before the Judicial Magistrate No.II, Ramanathapuram. After trial the learned Judicial Magistrate has convicted the petitioner under Section 330 of I.P.C. and has sentenced him to undergo one year rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to under go one month simple imprisonment.

4.Aggrieved by the same, the petitioner preferred an appeal before the learned Principal District and Sessions Judge, Ramanathapuram in C.A.No.5 of 2018, in which, the sentence was modified as six months rigorous imprisonment and to pay a fine of Rs.20,000/-.

5.Against that judgment, the petitioner has preferred a Revision in Crl.R.C.No.416 of 2018. Along with the revision, he has filed the present petitions for suspension of sentence pending disposal of the said revision and for exemption of his surrender pursuant to the aforesaid Judgment.

6.On the side of the petitioner, it is stated that three criminal cases are pending against P.W.1. and it is stated that the conviction was based only upon the oral evidence of P.W.-1, whereas the P.W-2 to P.W- 4 were hearsay witnesses and P.W.5, who is the independent witness has turned hostile and there are contradiction between both the evidence of the Doctors' viz., P.W.s.8 and 9, regarding injuries caused to the complainant and P.W.10 has deposed that the investigation is only done by her and as per the Police Standing Order, RDO has conducted enquiry and RDO report was not



marked in the case and that RDO was not examined as a witness and he prayed for suspension of sentence till the disposal of the revision.

7. On the side of the respondent, it is stated that F.I.R. was registered on Court's direction and after enquiry, charge sheet was filed against the petitioner. The prosecution has examined 12 witnesses and marked 5 documents. P.W.1 has clearly deposed regarding offence. The evidence of P.W.2 to 3 corroborate the evidence of P.W.1 and the evidences of P.W.8 and P.W.9 corroborate the evidence of P.W.1. P.W.8 and 9 deposed regarding the injury and sanction is not necessary for the case and both the Courts below have given correct conclusion and prayed the petition to be dismissed.

8. Records perused.

9. From the above said submission, it is stated that the petitioner is having some grounds for argument in revision and this Court is of the view that the petitioner herein is entitled to put forth his case in this revision petition and till the revision is taken up for hearing the petitioner needs some relief.

10. In the above circumstances, this Court is inclined to grant suspension of sentence till the disposal of the Revision Case, on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Ramanathapuram and on further condition that:

(i) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.

(ii) the petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the revision and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C., and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the Trial Court.

(iii) The petitioner is not exempted from surrendering before the trial Court for the purpose of furnishing sureties.

sd/-

26/07/2018

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TO

1. THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
RAMANATHAPURAM.
2. THE JUDICIAL MAGISTRATE NO.II, RAMANATHAPURAM.
3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
4. THE DEPUTY SUPERINTENDENT OF POLICE,
PARAMAKUDI TOWN, NAINARKOVIL POLICE STATION,
RAMANATHAPURAM DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to Mr.M.SUBASH BABU Advocate SR.No.14250

ORDER IN
CRL MP(MD) Nos.5925 and 5926 of 2018
IN CRL RC(MD) No.416 of 2018
Date :26/07/2018

MS/PN/SAR-4/03.08.2018/4P.7C