

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.09.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.RC.NO.883/2019

1.Vasanth Kumar

2.Dheenadhayalan ..Petitioners/Petitioners/
Petitioners/Appellant/ Accused 3 and 4

Vs

state rep. By

1. The Public Prosecutor,
Tiruppur

2. The Inspector of Police,
Purmanallur Police Station,
Tiruppur District
(Crime No.422/2015)

..Respondent/Respondent/
/Respondent/Complainant

Prayer:- The Criminal Revision Petition is filed under Section 397 and 401 of Cr.PC., to call for the records of the Principal District and Sessions Judge, Tiruppur, in C.M.P.No.952 of 2019, in C.A.No.82/2019 and set aside the said order passed by the Principal District and Sessions Judge, Tiruppur, in C.M.P.No.952/2019, in C.A.No.82/2019 dated 13.08.2019.

For Petitioners: M/S.S.P.Meenakshi Sundharam

For Respondents: Mr.M.Mohamed Riyaz, APP

ORDER

1.This revision has been filed by the petitioners/appellants/A-3 and A-4 seeking to set aside the order dated 13.08.2019 made in C.M.P.No.952 of 2019, in C.A.No.82/2019, on the file of the learned Principal District and Sessions Judge, Tiruppur, in dismissing the petition for suspension of sentence.

2.The learned counsel for the petitioner would submit that the petitioners are accused No.3 and 4 in C.C.No.594/2017 tried by the learned Judicial Magistrate No.IV, Tiruppur. The trial

Court by order dated 10.07.2017 in C.C.No.594/2017 found the petitioners guilty and convicted them for the offence under section 120 (B) of IPC and sentenced them to undergo simple imprisonment for one year and to undergo one year simple imprisonment for the offence under section 379 of IPC and the sentences were ordered to run concurrently. He would submit that the trial Court at the time of conviction, had suspended the sentences till 07.08.2019. While so, the petitioners had preferred the appeal within the statutory period on 07.08.2019 in Crl.A.NO.82/2019 and the petitioners had also filed a petition seeking for suspension of sentence in Crl.MP.NO.952/2019. However, the learned Appellate Judge, observing that the period of suspension of sentence granted by the Trial Court, had already lapsed, dismissed the petition for suspension as not maintainable and had directed the learned Judicial Magistrate No.IV, Tiruppur to issue Non-Bailable Warrant against the accused and to take steps to execute the same.

- 3.The learned counsel appearing for the petitioners would submit that the appeal has been filed within time and the learned Appellate Judge though had powers to suspend the sentence, had, on technicalities, dismissed the petition seeking for suspension of sentence holding that the appeal had been filed only on 07.08.2019.
- 4.The powers of the Appellate Court are not restricted. Moreover, the appeal has been filed within time. This Court is of the opinion that the Appellate Court ought not to have dismissed the petition for suspension of sentence on technicalities, when the appeal has been filed within time.
- 5.In the result, the criminal revision is allowed and the order passed by the learned Principal District and Sessions Judge, Tiruppur, in C.M.P.No.952 of 2019, in C.A.No.82/2019 dated 13.08.2019 is set aside and the matter is remitted back to the learned Judge to consider and pass orders in accordance with law taking into consideration the merits of the case.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Principal District and Sessions Judge,
Tiruppur.

2.The Inspector of Police,
Purmanallur Police Station,
Tiruppur District

3.The Public Prosecutor,
Tiruppur.

4.The Judicial Magistrate No.IV,
Tiruppur.

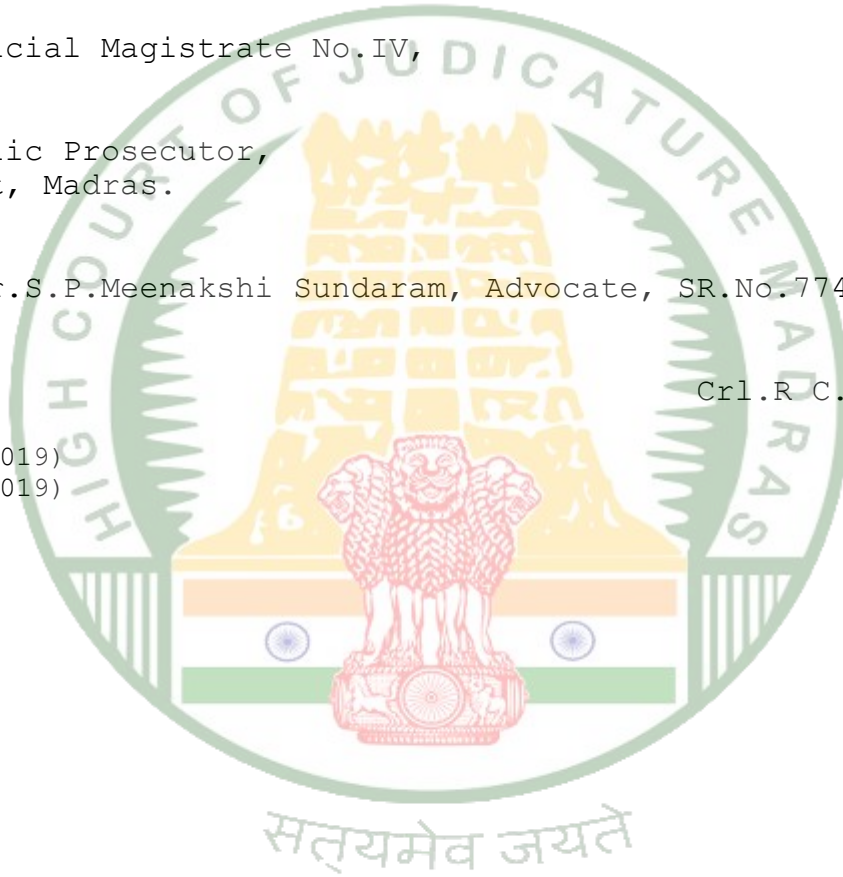
5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.P.Meenakshi Sundaram, Advocate, SR.No.77460

Cr1.R.C.No.883/2019

kak(10/09/2019)

Kak(13/09/2019)



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