



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

Friday, the Twenty Ninth day of March Two Thousand Nineteen

PRESENT

WEB COPY

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.1263 of 2019
IN
CRL A(MD) No.44 of 2019

MUHAMED MOHIDEEN

... APPELLANT/ SINGLE ACCUSED

Vs

RAMAIAH

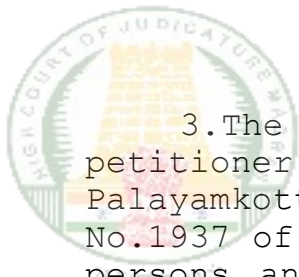
... RESPONDENT/ COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence passed in H.R.C.No.1/2018 dated 05/02/2019 on the file of the Court of Special Court of Special Court for Human Rights (Principal Sessions Court), Tirunelveli enlarge the petitioner/appellant/accused 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 Mr.N.MOHIDEEN BASHA, Advocate for the petitioner, and respondent not appeared either in person or by an advocate, the court made the following order:-

This Miscellaneous Petition is filed to suspend the sentence passed in HRC No.1 of 2018, dated 05.02.2019 on the file of the Special Court for Human Rights (Principal Sessions Court), Tirunelveli and release the petitioner on bail, pending disposal of the criminal appeal.

2.The learned counsel appearing for the petitioner submitted that the petitioner was convicted for the offence under Section 341 IPC and sentenced to undergo one month of Rigorous Imprisonment and to pay a fine of Rs.500/-, in default 1 week simple imprisonment and for the offence under Section 365 IPC, sentenced to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default 6 months simple imprisonment and for the offence under Section 347 IPC, sentenced to undergo 2 years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default 3 months simple imprisonment and for the offence under Section 385 IPC, sentenced to undergo 2 years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default 3 months simple imprisonment and out of which, Rs.10,000/- is awarded as compensation to PW1/Victim under Section 357(1) of Cr.P.C.



3.The learned counsel for the petitioner stated that the petitioner while he was working as Inspector of Police (Crime), Palayamkottai Police station, had investigated the case in Crime No.1937 of 2009 under Sections 387 and 506(ii) IPC, he arrested two persons and on the basis of their confession, he along with his police party went to the pawn shop of complainant/PW1 and from the pawn shop, some jewels were recovered and he had never violated any Human Rights and he had performed his duty and there are contradictions between the allegations found in the private complaint as well as in the complaint given before the Deputy Commissioner of Police, Tirunelveli and evidence before the court and hence, it presumes that he came up with false case and further, the petitioner is in Tirunelveli Medical College Hospital and he is aged about 65 years and prays for suspension of the judgment of the trial court.

4.In-spite of receipt of summon, the respondent has not chosen to appear before this Court either in person or through counsel.

5.This court has carefully perused the documents available on record.

6.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate No.3, Tirunelveli and on further condition that the petitioner shall appear before the said court daily twice I.e., 10.30 am and 5.00 pm, pending appeal.

sd/-
29/03/2019

/ TRUE COPY /

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



TO

1. THE JUDGE,
SPECIAL COURT FOR HUMAN RIGHTS
(PRINCIPAL SESSIONS COURT), TIRUNELVELI.

2. THE JUDICIAL MAGISTRATE NO.3,
TIRUNELVELI.

3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

4. THE SUPERINTENDENT, CENTRAL PRISON,
PALAYAMKOTTAI.

+1. C.C. to Mr.N.MOHIDEEN BASHA Advocate SR.No.5813

ORDER

IN

CRL MP (MD) No.1263 of 2019

IN

CRL A (MD) No.44 of 2019

Date :29/03/2019

MS/VR/SAR-1/29.03.2019/3P.6C