



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

Monday, the Twenty Fifth day of February Two Thousand Nineteen
PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) Nos.1394 & 1395 of 2019

IN

CRL RC(MD) No.60 of 2019

DEVARAJ

... PETITIONER/PETITIONER
IN BOTH PETITIONS

Vs

THE STATE OF TAMIL NADU,
REP.BY THE INSPECTOR OF POLICE,
KANYAKUMARI POLICE STATION,
CRIME NO.756/2007
THROUGH THE PUBLIC PROSECUTOR

... RESPONDENT/RESPONDENT
IN BOTH PETITIONS

PRAYER IN CRL MP(MD).NO.1394 of 2019 in CRL RC(MD).NO.60 of 2019:-

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed in C.C.No.6/2008 on the file of the Judicial Magistrate No.I, Nagercoil, Kanyakumari District dated 22/02/2011 which was confirmed in Criminal Appeal No.29/2011 on the file of Additional District & Sessions Judge (Fast Track Court) Kanyakumari at Nagercoil dated 11/06/2018 pending disposal of the above Crl.R.C.

Prayer in CRL MP(MD). 1395/ 2019 in CRL RC(MD).NO.60 of 2019 :

To exempt the petitioner from surrendering in C.C.No.6/2008 on the file of the Judicial Magistrate No.I, Nagercoil, Kanyakumari District dated 22/02/2011 which was confirmed in Criminal Appeal No.29/2011 on the file of Additional District & Sessions Judge (Fast Track Court) Kanyakumari at Nagercoil dated 11/06/2018 pending disposal of the above Crl.R.C.

Order : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of Mr.S.XAVIER RAJINI, Advocate for the petitioner in both petitions and of MR.A.ROBINSON, Government Advocate(Crl. Side) on behalf of the Respondent in both petitions the court made the following order:-

The learned counsel for the petitioner submitted that the petitioner have been convicted by the learned trial Judge for the alleged offences under Section 304(A) I.P.C. (three counts), sentenced to under go rigorous imprisonment for a period of one year

in C.C.No.6 of 2008, on the file of the learned Judicial Magistrate No.I, Nagercoil.

2.The learned Additional District & Sessions Judge (Fast Track Court), Kanniyakumari at Nagercoil, confirmed the conviction and sentence and dismissed the Criminal Appeal No.29 of 2011, dated 11.06.2018.

2.It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

3.It is submitted by the learned Government Advocate (criminal side) that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and prays for dismissal of this petition.

4.This Court has carefully considered the rival contentions put forward by their side and also perused the materials available on record.

5.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 revision and further the criminal revision 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.

6.Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision and the petitioner is directed to be enlarged on bail on condition that the petitioner 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 Judicial Magistrate No.I, Nagercoil and on further condition that the petitioner shall appear before the said Court on the first working day of every week at 10.30 a.m pending revision.

7.The petitioner **is not exempted** from surrendering before the trial Court for the purpose of furnishing sureties.

sd/-
25/02/2019

/ TRUE COPY /



TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
(FAST TRACK COURT),
KANNIYAKUMARAI AT NAGERCOIL.

2. THE JUDICIAL MAGISTRATE NO. I,
NAGERCOIL,
KANYAKUMARI DISTRICT

3. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL

4. THE INSPECTOR OF POLICE,
KANYAKUMARI POLICE STATION,
KANYAKUMARI.

5. THE PUBLIC PROSECUTOR,
KANNIYAKUMARI DISTRICT.

+1. C.C. to MR.S.XAVIER RAJINI Advocate SR.No.3812

ORDER

IN

CRL MP (MD) Nos.1394 & 1395 of 2019
IN

CRL RC (MD) No.60 of 2019

Date :25/02/2019

AE/VR/SAR-II/01.03.2019/3P/7C