



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

Thursday, the Twenty Fifth day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.3065 of 2019

IN

CRL A(MD) No.133 of 2019

1 GANESH

2 PRABHAKARAN

3 TAMIL @ TAMILARASI

... PETITIONERS/ APPELLANTS/
ACCUSED 1 to 3

Vs

STATE REP. BY
THE DEPUTY SUPERINTENDENT OF POLICE,
TIRUPATHUR DIVISION,
THIRUKOHSTIYOOR POLICE STATION,
SIVAGANGAI DISTRICT.
CRIME NO.71/2011

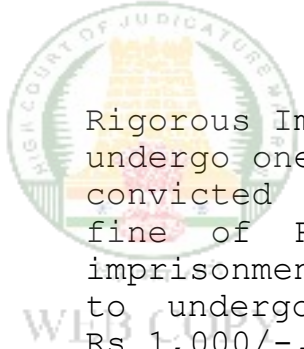
... RESPONDENT/ COMPLAINANT

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 S.C.No.44/2012 dated 15/13/2019 on the file of the Court of Special Court for PRC Cases (Sessions Court), Sivagangai enlarge the Petitioners/appellants/Accused on bail pending disposal of the above Crl.R.C

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 of MR.A.ROBINSON, Government Advocate (Crl. Side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the Special Court for PRC cases (Sessions Court), Sivagangai, in S.C.No.44 of 2012, dated 15.03.2019 and enlarge the petitioners on bail, pending disposal of the above criminal appeal.

2.The learned counsel for the petitioners submitted that petitioners 1 and 2/A1 and A2 were convicted by the trial court for the offence under Section 294(b) of IPC and imposed a fine of Rs.1,000/-, in default to undergo one month rigorous imprisonment and for the offence under Section 323 IPC, imposed a fine of Rs.1,000/-, in default to undergo one month rigorous imprisonment and for the offence under Section 354 IPC, sentenced to undergo one year Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default one month rigorous imprisonment and for the offence under Section 3(1)(x) of SC/ST Act, 1989 sentenced to undergo 1 year



Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one month rigorous imprisonment and the 3rd petitioner/A3 was convicted for the offence under Section 294(b) IPC and imposed a fine of Rs.1,000/-, in default to undergo 1 months rigorous imprisonment and under Section 3(1)(x) of SC/ST Act, 1989, sentenced to undergo 1 years rigorous imprisonment and to pay fine of Rs.1,000/-, in default to undergo one month rigorous imprisonment.

3.The learned counsel for the petitioners further submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and the trial court erred in convicting the petitioners without any substantial evidence and that there are arguable points in the main appeal. In view of the above circumstances, the petitioners seek the relief of suspension of sentence till the disposal of the appeal.

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

5.This court has carefully considered the rival contentions put forward on either side and also perused the materials available on record.

6.The learned counsel for the petitioners 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 petitioners 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 petitioners are directed to be enlarged on bail on condition that each of them 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 Special Court for PRC cases (Sessions Court), Sivagangai and on further condition that the petitioners shall appear before the said court daily twice I.e., at 10.30 am and 5.00 pm pending appeal.

sd/-

25/04/2019

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TO

1 THE SPECIAL COURT FOR PRC CASES
(SESSIONS COURT), SIVAGANGAI.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
TIRUPATHUR DIVISION,
THIRUKOHSTIYOOR POLICE STATION,
SIVAGANGAI DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.N.MOHIDEEN BASHA, Advocate SR-7260

ORDER

IN

CRL MP (MD) No.3065 of 2019

IN

CRL A (MD) No.133 of 2019

Date :25/04/2019

JM/MMS/SAR 4/02.05.2019/3P/5C