



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.3200 of 2019

IN

CRL RC(MD) No.210 of 2019

GENGAIYA @ SELVAM

... PETITIONER/ SINGLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
SETHUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.218/2014)

... 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 SC.No.17/15 dated 23.03.2016 on the file of the Chief Judicial Magistrate, Virudhunagar District at Srivilliputhur and the same was confirmed in C.A.No.33 of 2016 dated 11.01.2019 on the file of the Learned Additional Sessions, Srivilliputhur pending disposal of the above said Crl.RC.

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.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 Additional Sessions Judge, Srivilliputtur, in C.A.No.33 of 2016, dated 11.01.2019, confirming the judgment of the Chief Judicial Magistrate, Virudhunagar District @ Srivilliputhur in S.C.No.17 of 2015, dated 23.03.2016 and enlarge the petition on bail pending disposal of the above criminal revision.

2.The learned counsel for the petitioner submitted that petitioner was convicted by the trial Court for the offence under Section 294(b) IPC and imposed a fine of Rs.1,000/- in default to undergo 1 month simple imprisonment and for the offence under Section 307 IPC (2 counts) to undergo 5 years rigorous imprisonment and to pay a fine of Rs.20,000/- each, in default to undergo 1 year simple imprisonment. Aggrieved by the Judgment of the trial court, the petitioner preferred appeal before the first appellate court and



the first appellate court had also confirmed the findings of the trial court. Hence, the petitioner is before this court.

3. The learned counsel for the petitioner 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 erred in convicting the petitioner without any substantial evidence. It is also submitted that the petitioner was in jail about 30 days and he is the only breadwinner of his family and that there are arguable points in the main revision. In view of the above circumstances, the petitioner seeks the relief of suspension of sentence till the disposal of the revision.

4. 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.

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

7. Accordingly, this 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 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, Rajapalayam and on further condition that the petitioner shall appear before the said court daily twice I.e., at 10.30 am and 5.00 pm pending revision.

sd/-

25/04/2019

/ TRUE COPY /

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



TO

1 THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILIPUTTUR.

2 THE ADDITIONAL SESSIONS JUDGE,
SRIVILLIPUTTUR.

3 THE JUDICIAL MAGISTRATE, RAJAPALAYAM.

4 THE INSPECTOR OF POLICE
SETHUR POLICE STATION, VIRUDHUNAGAR DISTRICT.

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

+1. C.C. to MR.N.MOHIDEEN BASHA Advocate SR.No.7258

ORDER
IN
CRL MP (MD) No.3200 of 2019
IN
CRL RC (MD) No.210 of 2019
Date :25/04/2019

MS/VR/SAR-4/02.05.2019/3P.7C