



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

Wednesday, the Twenty Fourth day of April Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.3748 of 2019

IN

CRL A(MD) No.173 of 2019

1 VIJESH

2 SABIN

... PETITIONERS/APPELLANTS

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
VADASERY POLICE STATION, NAGERCOIL,
KANYAKUMARI DISTRICT,
(CRIME NO.380/2009)

... 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 of Imprisonment imposed on the petitioners/Appellants by the Learned Principal Sessions Judge, Kanyakumari District at Nagercoil in S.C.No.196/2016 dated 02/04/2019 and enlarge the petitioners/appellants on bail pending disposal of the above Crl.A.

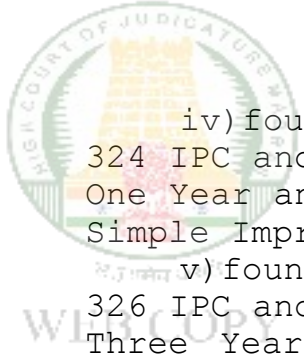
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.M.SURI, Advocate for the petitioner and of Mr.A.ROBINSON, Government Advocate (Crl Side) for the Respondents, while admitting CRL A, the court made the following order:-

The petitioners were convicted by the Judgment dated 02.04.2019 by the learned Principal Sessions Judge, Kanniyakumari District at Nagercoil in S.C.No.196 of 2016 in the following manner.

i)found guilty for the offence under Section 148 IPC and sentenced to undergo One Year Simple Imprisonment and imposed a fine of Rs.1,000/- in default to undergo Simple Imprisonment for Two months;

ii)found guilty for the offence under section 450 IPC and sentenced to undergo Two Years Simple Imprisonment and also imposed a fine of Rs.5,000/- in default to undergo Simple Imprisonment for Three months;

iii)found guilty for the offence under section 427 IPC and sentenced to undergo Simple Imprisonment for a period of Six Months and also imposed a fine of Rs.1,000/- in default to undergo Simple Imprisonment for One month;



iv) found guilty for the offence under section 149 r/w Section 324 IPC and sentenced to undergo Simple Imprisonment for a period of One Year and also imposed a fine of Rs.2,000/- in default to undergo Simple Imprisonment for Two months and

v) found guilty for the offence under section 149 r/w Section 326 IPC and sentenced to undergo Simple Imprisonment for a period of Three Years and also imposed a fine of Rs.5,000/- in default to undergo Simple Imprisonment for Six months; and the sentence of imprisonment imposed on them shall ordered to be run concurrently. Hence, the petitioners seek suspension of sentence.

2. The learned counsel for the petitioners would submit that the sentence imposed by the trial Court is suspended till 03.06.2019. He would further submit 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. The learned Government Advocate (criminal side) appearing for the State would submit 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.

4. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record. Since there are 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 this 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 are entitled to the relief of grant of suspension of sentence.

6. 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 the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Nagercoil, and on further condition that the petitioners shall appear before the said Court on the first working day of every month at 10.30 a.m pending appeal.

sd/-
24/04/2019

/ TRUE COPY /



TO

- 1 THE PRINCIPAL SESSIONS JUDGE,
KANNIYAKUMARI DISTRICT AT NAGERCOIL.
- 2 THE JUDICIAL MAGISTRATE NO-II,
NAGERCOIL.
- 3 THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI AT NAGERCOIL.
- 4 THE INSPECTOR OF POLICE,
VADASERY POLICE STATION, NAGERCOIL,
KANYAKUMARI DISTRICT.
- 5 ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

PS/PN/SAR-1/02.05.2019/3P/6C

ORDER
IN
CRL MP (MD) No.3748 of 2019
IN
CRL A (MD) No.173 of 2019
Date : 24/04/2019