



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

Monday, the Twenty Second day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.3790 of 2019

IN

CRL A(MD) No.111 of 2015

CHRISTUDHASS

... PETITIONER/ APPELLANT

Vs

THE STATE OF TAMIL NADU,
REPRESENTED BY ITS
THE INSPECTOR OF POLICE,
ARUMANAI POLICE STATION,
KANYAKUMARI DISTRICT,
CRIME NO.103/2004

... RESPONDENT/ RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to modify the condition No.2 for payment of fine amount imposed on the petitioner in the order passed by this Honourable Court in M.P(MD). No.1/2015 in Criminal Appeal No.111/2015 dated 27/04/2015.

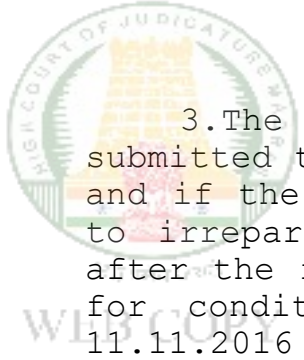
Prayer in CRL A(MD) No.111 of 2015:

To set aside the Jugdment and Conviction dated 10.02.2015, by the learned Sessions Judge, kanyakumari District at Nagercoil in S.C.No.29 of 2005 and acquit the Appellants and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S. R. VENKATESAN, Advocate for the petitioner and of Mrs.M.ANANTHA DEVI, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is to modify the condition No.2 for payment of fine amount imposed on the petitioner in the order passed by this court in MP(MD)No.1 of 2015 in Criminal Appeal No.111 of 2015, dated 27.04.2015.

2.The learned counsel appearing for the petitioner submitted that the petitioner was convicted for the alleged offences under Sections 449 and 304(i) IPC and sentenced him to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default 6 months Rigorous Imprisonment for the offence under Section 449 IPC and also sentenced him to undergo 10 years Rigorous Imprisonment and imposed a fine of Rs.50,000/-, in default to undergo 3 years Rigorous Imprisonment for the offence under Section 304(i) IPC.



3.The learned counsel appearing for the petitioner further submitted that due poverty, he could not able to pay the fine amount and if the payment of fine amount is not suspended, he will be put to irreparable loss and injury and that nobody is there to look after the family members of the petitioner and the earlier petition for condition modification was dismissed by this court, dated 11.11.2016 in CMP No.2 of 2015 in Cr1.A(MD)No.111 of 2015.

4.The learned Government Advocate (Criminal side) for the respondent/State submitted that this court has corrected imposed all the conditions as per the relevant provisions and there is no need to interfere in the order of this court passed in MP(MD)No.1 of 2015 in Cr1.A(MD)No.111 of 2015, dated 10.02.2015 and prays for dismissal of this petition.

5.Heard both sides and perused the materials available on record.

6.It is seen from the records that already suspension of sentence was ordered in Cr.MP(MD)No.1 of 2015. The petitioner filed this petition to modify the condition of payment of fine imposed by the lower court. In this case, A1 found guilty under Sections 449 and 304(i) IPC and A2 is found guilty under Section 449 and 307 IPC. For the offence under Section 449 and 304(i) IPC, imposition of fine is mandatory. There is no exemption for the poor to pay the fine amount. Under these circumstances, this court is not inclined to modify the condition imposed on the petitioner. The reasons stated in the affidavit filed by the petitioner are not all acceptable. Hence, in the interest of justice, this petition is liable to be dismissed.

7.In the result, this Criminal Miscellaneous Petition is **dismissed**.

sd/-
22/07/2019

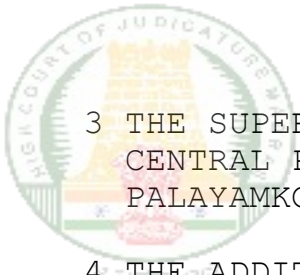
/ TRUE COPY /

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

TO

1 THE SESSIONS JUDGE,
KANYAKUMARI DISTRICT AT NAGERCOIL

2 THE INSPECTOR OF POLICE
ARUMANAI POLICE STATION,
KANYAKUMARI DISTRICT.



3 THE SUPERINTENDENT,
CENTRAL PRISON,
PALAYAMKOTTAI.

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

WEB COPY

ORDER

IN

CRL MP (MD) No.3790 of 2019

IN

CRL A (MD) No.111 of 2015

Date :22/07/2019

JM/JC/SAR 4/25.07.2019/3P/5C