



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

Thursday, the First day of August Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.5627 of 2019

IN

CRL RC(MD) No.379 of 2019

XAVIER

... PETITIONER/ PETITIONER

Vs

AROCKIASAMY

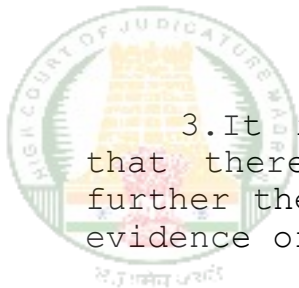
... RESPONDENT/ RESPONDENT

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 one month R.I for offence u/s.341 IPC, three months r/I for offence u/s. 323 IPC, 6 months r/I for the offence u/s. 506(2) IPC by its order in CC.No.72 of 2009 dated 30.08.2011 on the file of the District Munsif cum Judicial Magistrate, Bodinaickanoor and confirmed by the Sessions Court of Theni @ Periyakulam in Crl A No.33 of 2011 dated 08.02.2019 till the disposal of this revision petition.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.A.JOHN VINCENT, Advocate for the petitioner and of Mr.N.SATHEESHKUMAR, Advocate on behalf of the Respondent, the court made the following order:-

The learned counsel for the petitioner submitted that the petitioner has been convicted by the trial Court for the alleged offence under Section 341 of IPC., and sentenced to undergo rigorous imprisonment for a period of one month and for the alleged offence under Section 326 of IPC., and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.2,000/-, in default to undergo rigorous imprisonment for a period of one month and for the alleged offence under Section 323 of IPC., and sentenced to undergo rigorous imprisonment for a period of three months and for the alleged offence under Section 506(2) r/w 34 of IPC., and sentenced to undergo rigorous imprisonment for a period of six months in C.C.No.72 of 2009, on the file of the District Munsif Cum Judicial Magistrate, Bodinaickanoor.

2.The learned Additional District and Sessions Judge, Theni @ Periyakulam confirmed the conviction and sentence and dismissed the Criminal Appeal No.33 of 2011, dated 08.02.2019.



3.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.

4.It is submitted by the learned counsel for the respondent that there are enough materials available on record against the petitioner and prays for dismissal of this petition.

5.This Court has carefully considered the rival contentions put forward by 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, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision on the following conditions:-

(i) the petitioner is directed to be enlarged on bail on his executing 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 learned District Munsif Cum Judicial Magistrate, Bodinaickanoor;

(ii) and on further condition that the petitioner shall appear before the said Court daily twice at 10.30 a.m. and 5.00 p.m pending revision.

sd/-
01/08/2019

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

TO

1. THE SESSIONS JUDGE,
THENI @ PERIYAKULAM.

2. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
BODINAICKANOOR.



3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.

+2. C.C. to M/S.A.JOHN VINCENT Advocate SR.Nos.12701 & 12764

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ORDER

IN

CRL MP (MD) No.5627 of 2019

IN

CRL RC (MD) No.379 of 2019

Date :01/08/2019

MS/VR/SAR-3/02.08.2019/3P.6C