



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

Friday, the Thirtieth day of August Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.6792 of 2019

IN

CRL A(MD) No.338 of 2019

NAMBIRAJAN

... PETITIONER/ACCUSED NO.1

Vs

THE STATE BY THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, NANUGNERI POLICE STATION,
TIRUNELVELI DISTRICT.
CR.NO.5 OF 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 of imprisonment imposed on the petitioner judgment dated 12.07.2019 made in SC No.444 of 2015 on the file of the Sessions Judge, Mahila Court, Tirunelveli and enlarge the petitioner 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 R.NIRESH KUMAR, Advocate for the petitioner and of MR.R.ANANDHARAJ, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence of imprisonment passed in SC No.444 of 2015, dated 12.07.2019 by the Sessions Judge, Mahila Court, Tirunelveli and enlarge the petitioner on bail, pending disposal of the criminal appeal.

2.The learned counsel appearing for the petitioner/A1 submitted that the petitioner was convicted for the offence under Section 417 IPC and sentenced him to undergo one year RI and for the offence under Section 376 IPC, sentencing him to undergo 10 years of rigorous imprisonment and to pay a fine of Rs.5,000/-, in default to undergo 3 months SI for the offence Section 376 IPC and to pay a compensation of Rs.1,00,000/- each to PW1 and to the child Sabitha.



3.The learned counsel appearing for the petitioner further submitted that the petitioner is an innocent person and he was falsely implicated in this case and he is only bread winner of the family and that there are several infirmities in the prosecution case and there are contradictions in material particulars between the evidence of the prosecution witnesses and prays for suspension of sentence.

4.It is submitted by the learned Additional Public Prosecutor that the trial court has rightly convicted the petitioner and there are enough materials available on record against the petitioner 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 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 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 appeal 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, Nanguneri 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 appeal.

sd/-
30/08/2019

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



TO

1 THE SESSIONS JUDGE,
MAHILA COURT, TIRUNELVELI.

2 THE JUDICIAL MAGISTRATE,
NANGUNERI.

3 THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

4 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, NANUGNERI POLICE
STATION, TIRUNELVELI

5 THE SUPERINTENDENT
CENTRAL JAIL, PALAYAMKOTTAI.

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

+1. C.C. to R.NIRESH KUMAR Advocate SR.No.14537

ORDER

IN

CRL MP(MD) No.6792 of 2019

IN

CRL A(MD) No.338 of 2019

Date :30/08/2019

TR/PN/SAR-I (03.09.2019) 3P 8C