



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Thursday, the Thirteenth day of February Two Thousand Twenty

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PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) Nos.913 and 915 of 2020

IN

CRL RC(MD) No.100 of 2020

VINUKUMAR

... PETITIONER/PETITIONER
IN BOTH PETITIONS

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
KALIYAKKAVILAI POLICE STATION,
KANNYAKUMARI DISTRICT.

... RESPONDENT/ RESPONDENT
IN BOTH PETITIONS

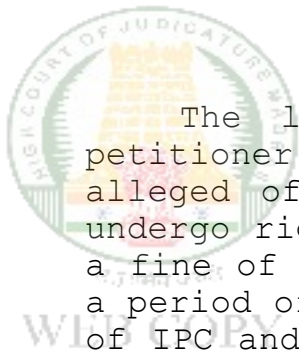
PRAYER IN CRL MP(MD)No.913 of 2020 IN CRL RC(MD) No.100 of 2020:

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to Suspend the Sentence imposed by learned Judicial Magistrate No.I, Kuzhithurai in C.C.No.321/2004 dated 12.07.2013 confirmed by learned Additional district and Sessions Judge, (Fast Track Court) Kanyakumari District in Crl.A.No.54/2013 dated 07.12.2019 till the disposal of revision petition.

PRAYER IN CRL MP(MD)No.915 of 2020 IN CRL RC(MD) No.100 of 2020:

To exempt the petitioner from the surrender before learned Judicial Magistrate No.I, Kuzhithurai in C.C.No.321/2004 dated 12.07.2013 confirmed by learned Additional district and Sessions Judge, (Fast Track Court) Kanyakumari District in Crl.A.No.54/2013 dated 7.12.2019 till the disposal of revision petition.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.K.P.NARAYANAKUMAR, Advocate for the petitioner in both petitions, and of Mr.A.P.G.Ohm Chairma Prabhu, Government Advocate (Crl.Side) on behalf of the Respondent in both petitions, the court made the following order:-



The learned counsel for the petitioner submitted that the petitioner has been convicted by the learned trial judge, for the alleged offence under Section 304(A) of IPC and sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.2,000/-, in default to undergo simple imprisonment for a period of two months and for the alleged offence under Section 279 of IPC and sentenced him to pay a fine of Rs.5,00/-, in default to undergo simple imprisonment for a period of three weeks and for the alleged offence under Section 337 of IPC and sentenced him to pay a fine of Rs.5,00/-, in default to undergo simple imprisonment for a period of three weeks in C.C.No.321 of 2004 on the file of the learned Judicial Magistrate No.1, Kuzhithurai.

2.The learned Additional District & Sessions Judge, (Fast Track Court), Kanyakumari at Nagercoil, confirmed the conviction and sentence and dismissed the Criminal Appeal No.54 of 2013, dated 07.12.2019.

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 Government Advocate (Crl.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 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 and the petitioner is directed to be enlarged on bail on condition that the petitioner 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 learned Judicial Magistrate No.1, Kuzhithurai, and on further condition that the petitioner shall appear before the concerned Court daily at



8.The petitioner is exempted from surrendering before the trial Court for the purpose of furnishing sureties.

sd/-
13/02/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1.THE ADDITIONAL DISTRICT AND SESSIONS JUDGE
(FAST TRACK COURT),
KANAYKUMARI DISTRICT AT NAGERCOIL.
- 2.THE JUDICIALMAGISTRATE NO I,
KUZHITHURAI.
- 3.THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL
- 4.THE INSPECTOR OF POLICE
KALIYAKKAVILAI POLICE STATION,
KANNYAKUMARI DISTRICT.
- 5.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.K.P.NARAYANAKUMAR Advocate SR.No.3088

ORDER
IN
CRL MP (MD) Nos.913 and 915 of
2020 IN
CRL RC (MD) No.100 of 2020
Date :13/02/2020

VSD
TK/VR/SAR.2/14.02.2020/3P/7C