



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

Thursday, the Ninth day of January Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.4319 of 2019
IN
CRL RC(MD) No.291 of 2019

SHEIK ATHAM

... PETITIONER/ APPELLANT/
ACCUSED

Vs

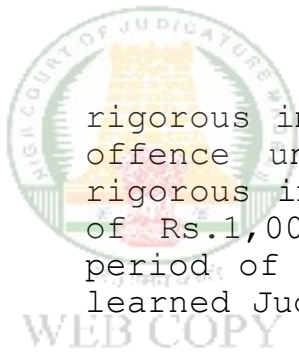
STATE REP.BY
THE INSPECTOR OF POLICE,
TIRUNELVELI DISTRICT CRIME BRANCH,
TIRUNELVELI DISTRICT.
CRIME NO.4 OF 1999

... RESPONDENT/ 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 imposed on the petitioner by the judgment dated 24.10.2018 passed in CA.No.24 of 2015 on the file of the III Additional District Judge, Tirunelveli and by confirming the judgment dated 10.03.2015 passed in CC.No.361 of 2002, on the file of the Judicial Magistrate No.I, Tirunelvlei and release the petitioner on bail pending disposal of the above Crl.RC.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.K.RAJESHWARAN, Advocate for the petitioner and of Mr.A.P.G.OHM CHAIRMA PRABHU, Government Advocate(Crl.Side) 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 learned trial judge, for the alleged offence under Section 409 of IPC, and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- in default to undergo rigorous imprisonment for a period of three months and for the alleged offence under Section 465 of IPC, and sentenced to undergo rigorous imprisonment for a period of three months and to pay a fine of Rs.5,00/- in default to undergo



rigorous imprisonment for a period of one month and for the alleged offence under Section 477(A) of IPC, and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1,000/- in default to undergo rigorous imprisonment for a period of three months in C.C.No.361 of 2002, on the file of the learned Judicial Magistrate No.1, Tirunelveli.

2.The learned III Additional District and Sessions Judge, Tirunelveli, confirmed the conviction and sentence and dismissed the Criminal Appeal No.24 of 2015, dated 24.10.2018.

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 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 Judicial Magistrate No.1, Tirunelveli;

(ii) and the petitioner is directed to deposit a sum of Rs.62,000/- (Rupees Sixty two thousand only) to the credit of C.C.No.361 of 2002, on the file of the learned Judicial Magistrate No.1, Tirunelveli within a period of two weeks from the date of receipt of a copy of this order;



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

sd/-
09/01/2020

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

TO

1. THE III ADDITIONAL DISTRICT JUDGE,
TIRUNELVELI.
2. THE JUDICIAL MAGISTRATE NO.I, TIRUNELVELI.
3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
4. THE INSPECTOR OF POLICE,
TIRUNELVELI DISTRICT CRIME BRANCH,
TIRUNELVELI DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S.K.RAJESHWARAN Advocate SR.No.767

ORDER
IN
CRL MP(MD) No.4319 of 2019
IN
CRL RC(MD) No.291 of 2019
Date :09/01/2020

MS/VR/SAR-4/10.01.2020/3P.7C