



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

Friday, the Ninth day of October Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

Crl.M.P.(MD) Nos.4667 and 4668 of 2020
in
Crl.RC.(MD) No.522 of 2020

1 JEYAKUMAR
2 BOOPATHI
3 CHELLAM
4 VEKATESAN

... PETITIONERS/ PETITIONERS
IN BOTH THE PETITIONS

Vs

LATHA @ LATHADEVI

... RESPONDENT/ RESPONDENT
IN BOTH THE PETITIONS

PRAYER IN Crl.M.P. (MD) No.4667 of 2020:

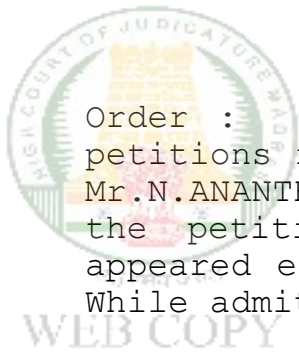
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the substantial sentence passed against the petitioners/Accused above name in learned District Munsif cum Judicial Magistrate in C.C.No.145 of 2017 dated 25.05.2018 and confirmed by the Principal Sessions Judge, Sivagangai in Crl.A.No.57 of 2018, dated 26.06.2020 pending disposal of the above Criminal Revision Petition and render justice.

Prayer in CRL MP(MD). 4668/ 2020 :

to grant exemption to the petitioners from surrendering to custody pursuant to the order of conviction and award of sentence rendered by learned District Munsif Cum Judicial Magistrate in C.C.No.145 of 2017 by his order dated 25.05.2018 and confirmed by the Principal Sessions Judge, Sivaganga in Crl.A.No.57 of 2018 dated 26.06.2020 pending disposal of the Criminal Revision Petition and render justice.

PRAYER IN Crl.RC. (MD) No.522 of 2020:

To call for the records and set aside the order of conviction and sentence rendered by the leaned District Munsif cum Judicial Magistrate in C.C.No.145 of 2017 by his order dated 25.05.2018 and confirmed by the Principal Sessions Judge, Sivaganga in Crl.A.No.57 of 2018 dated 26.06.2020 and allow this Revision Petition.



Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.N.ANANTHAPADMANABHAN, Advocate for M/S.APN LAW ASSOCIATES, for the petitioners in both the petitions and the respondent not appeared either in person or by an advocate in both the petitions, While admitting the CRL RC., the court made the following order:-

The case against the petitioners is that the petitioners and other accused arranged for the 2nd marriage of the first petitioner / A1, when the first marriage of the first accused is in force. A private complaint was filed by the complainant / respondent and the same was taken on file as C.C.No.145 of 2017 under Sections 494, 495, 294(b), 506 (ii) read with Section 109 IPC, before the District Munsif cum Judicial Magistrate, Ilayangudi and the learned Magistrate framed charges under Section 494-B IPC against A1 and under Section 494-B read with 109 IPC against A2 to A7 and under Section 294(b) against A3 to A5. After trial the learned Magistrate acquitted A3, A4 and A5, under Section 294(b) IPC and convicted A1 under Section 494 IPC and convicted A2 to A7 under Section 494 read with 109 IPC and sentenced them to undergo one year imprisonment each and to pay a fine of Rs.500/-, each, in default, to under go further period of one week simple imprisonment each.

2. As against the said conviction and sentence, the petitioners have preferred an appeal in Crl.A.Nos.57 and 58 of 2018 before the Principal Sessions Judge, Sivagangai. The first appellate Court has also confirmed the conviction and sentence, by its common judgement dated 26.06.2020. Aggrieved by the same, the petitioners preferred a revision in Crl.R.C.(MD)No.522 of 2020. Along with the revision, the petitioners filed this petition for suspension of sentence.

3. Though notice was served to the respondent / complainant, name printed, none appeared for the respondent / complainant.

4. On the side of the petitioners, it is stated that the offence is only 494 IPC, which is non cognizable and bailable and the petitioners are having right to file a petition for suspension of sentence and prayed the sentence to be suspended.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. The petitioners herein were arrayed as Accused Nos.1, 3, 4 and 5 in the case. The offence against A1 is under Section 494 IPC and the offence against A2 to A7 is under Section 494 read with 109 IPC. The offence is non-cognizable and bailable. The petitioners were enjoying bail through out the trial. In view of the same, this Court is inclined to suspend the sentence.



7. Accordingly, Crl.M.P.(MD)No.4667 of 2020 is allowed and the substantive sentence of imprisonment alone is suspended and the petitioners are ordered to be released on bail on the following conditions:-

(i) the petitioners are not exempted from surrendering before the trial Court and the petitioners are directed to surrender before the learned District Munsif cum Judicial Magistrate, Ilayangudi, within a period of two weeks from the date of receipt of copy of this order;

(ii) the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Ilayangudi;

(iii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their any valid identity proof to ensure their identity.

(iv) the petitioners shall appear before the Trial Court as and when required for interrogation;

8. Accordingly, Crl.M.P.(MD)No.4668 of 2020 is dismissed.

sd/-
09/10/2020

/ TRUE COPY /

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

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE PRINCIPAL SESSIONS JUDGE, SIVAGANGAI
- 2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, ILAYANGUDI.
- 3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI DISTRICT.

ORDER IN
Crl.M.P.(MD) Nos.4667 and 4668 of 2020
IN CRL RC(MD) No.522 of 2020
Date :09/10/2020