



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

Wednesday, the Fourteenth day of October Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.4907 of 2020
IN
CRL RC(MD) No.560 of 2020

VELANKANNI

... PETITIONER

Vs

1 THE SUB DIVISIONAL MAGISTRATE AND
REVENUE DIVISIONAL OFFICER,
OFFICE OF THE REVENUE DIVISIONAL OFFICER,
DINDIGUL, DINDIGUL DISTRICT.

2 THE INSPECTOR OF POLICE,
TOWN SOUTH POLICE STATION,
DINDIGUL DISTRICT.

3 THE INSPECTOR OF POLICE,
DHADIKOMBU POLICE STATION,
DINDIGUL DISTRICT.

4 THE SUPERINTENDENT OF PRISON,
MADURAI CENTRAL PRISON,
MADURAI DISTRICT.

... RESPONDENTS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to Suspend the sentence passed by the Respondent No.1 in M.C.No.194/2019/A1 dated 02.09.2020 and release the petitioner now confining at Madurai Central Prison, Pending disposal of the Criminal Revision.

Prayer in CRL RC(MD) No.560 of 2020:

To call for the records connected with the order passed by the Respondent No.1 in M.C.No.194/2019/A1 dated 02.09.2020 and set aside the same as illegal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.B.DHANASEKARAN, Advocate for the petitioner and of MRS.S.BHARATHI, Government Advocate on behalf of the Respondents, <https://hccs.court.gov.in/cases> the CRL RC., the court made the following order:-



This petition has been filed to suspend the sentence passed by the first respondent in M.C.No.194/2019/A1, dated 02.09.2020, pending the disposal of the Criminal Revision.

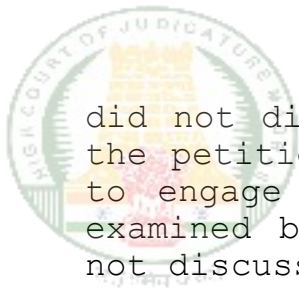
2. The second respondent filed a report before the first respondent, in L.I.R.No.92 of 2019, under Section 110(e) Cr.P.C., on 11.11.2019. The first respondent called upon the petitioner and after enquiry, the petitioner executed a bond to maintain peace for a period of one year i.e. from 13.12.2019. Subsequently, the petitioner involved in another criminal case in Crime No.843 of 2020, under Sections 120-B, 109, 457, 380 IPC. Again, the second respondent filed a report before the first respondent. Based on the report of the second respondent, the first respondent initiated proceedings under Section 122 (1)(b) Cr.P.C and passed the impugned order. Against the impugned order, the petitioner preferred this revision.

3. On the side of the petitioner, it is stated that no opportunity was given to the petitioner to engage an Advocate. The petitioner was not given sufficient opportunity to engage a legal aid counsel for contesting the enquiry. No independent witness was examined by the first respondent. All the witnesses examined by the first respondent were police officials. The procedures were not followed properly. Almost the period of incarceration likely to be over within a short period and prayed the petition to be allowed.

4. On the side of the respondents, it is stated that the petitioner has executed a bond under Section 110 (e) Cr.P.C. in M.C.No.194/2019/A1, for keeping peace and for maintaining good behaviour. Subsequently, the petitioner involved in an offence in Crime No.843 of 2020, under Sections 120-B, 109, 457, 380 IPC. Again, the petitioner involved in another offence in Crime No.1598 of 2020, under Section 8(c) r/w. Section 20(b) (ii)(B) NDPS Act. The first respondent, after careful consideration of the documents and statements of the petitioner and after due enquiry, passed the impugned order. The petitioner involved in eight previous cases, including two murder cases and two attempt to murder cases and he is history sheeted in H.S.No.05/2016 and prayed the petition to be dismissed.

5. Heard the learned counsel on either side and perused the materials available on record.

6. It is seen that the petitioner is a history sheeted offender. It is stated that the petitioner involved in two offences on 24.07.2020. It is seen that the summon was issued to the petitioner on 02.09.2020, the proceedings initiated on the same day and the order was passed on the same day. On the side of the petitioner, it is stated that the petitioner was not given opportunity to put forth his case. The impugned order



did not disclose whether the copies of documents were furnished to the petitioner, whether the petitioner was informed about his right to engage an Advocate whether the prosecution witness was cross-examined by the petitioner. That apart, the first respondent has not discussed anything about the statement given by the petitioner.

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7. Considering the antecedents of the petitioner, this Court is inclined to grant suspension of sentence alone. Accordingly, this petition is allowed, the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail till the disposal of the Revision Case, on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate, Dindigul and on further condition that:

(i) 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.

sd/-
14/10/2020

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/ /2020

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

TO

- 1 THE JUDICIAL MAGISTRATE, DINDIGUL.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL.
- 3 THE SUB DIVISIONAL MAGISTRATE AND
REVENUE DIVISIONAL OFFICER,
OFFICE OF THE REVENUE DIVISIONAL OFFICER,
DINDIGUL, DINDIGUL DISTRICT.
- 4 THE INSPECTOR OF POLICE,
TOWN SOUTH POLICE STATION,
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- 5 THE INSPECTOR OF POLICE,
DHADIKOMBU POLICE STATION,
DINDIGUL DISTRICT.
- 6 THE SUPERINTENDENT OF PRISON,
MADURAI CENTRAL PRISON,
MADURAI DISTRICT.

<https://hcservices.mca.gov.in/Services>



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

+1. C.C. to M/S.R.ALAGUMANI Advocate SR.No.7099

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ORDER

IN

CRL MP (MD) No.4907 of 2020

IN

CRL RC (MD) No.560 of 2020

Date :14/10/2020

LS

JM/PN/SAR III/16.10.2020/4P/9C