



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

Monday, the Seventh day of December Two Thousand and Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.5090 of 2020
IN
CRL RC(MD) No.490 of 2020

JOHN BRITTO

... PETITIONER/RESPONDENT/
ACCUSED

Vs

THE INSPECTOR OF POLICE,
LAW AND ORDER,
E3, ANNA NAGAR, (LAW AND ORDER)
MADURAI CITY.

... RESPONDENT/PETITIONER/
COMPLAINANT

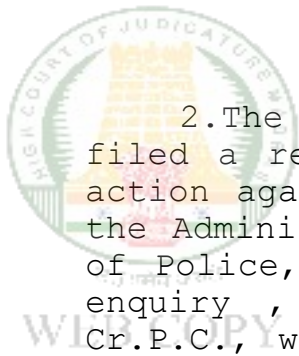
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence which was imposed by order dated 02/07/2020 in M.C.602/Nee.Se.Na & Ka.Thu.Aa/M.Ma/2020 on the file of the Administrative Executive Magistrate and the Deputy Commissioner of Police, Law and Order, Madurai City

PRAYER IN CRL RC(MD)No.490 of 2020:

Pleased to admit the Criminal Revision Petition and to call for the records pertaining to the order dated 02.07.2020 in M.C.No.602/Nee.Se.Na. & Ka.Thu.Aa/M.Ma/2020 on the file of the Administrative Executive Magistrate and The Deputy Commissioner of Police, Law and Order, Madurai City and set aside the same.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.K.GOKUL, Advocate for the petitioner and of Mrs.S.BHARATHI Government Advocate on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the order passed by the Administrative Executive Magistrate and the Deputy Commissioner of Police, Law and Order, Madurai in M.C.No.602/Nee.Se.Na. And Ka.Thu.Aa/M.Ma/2020 dated 02.07.2020, till the disposal of the revision.



2.The case against the petitioner is that the respondent police filed a report in report No.95 of 2020 dated 09.06.2020, to take action against the petitioner under Section 110 of Cr.P.C., before the Administrative Executive Magistrate and the Deputy Commissioner of Police, Law and Order, Madurai City. On 12.06.2020, after oral enquiry, the petitioner executed a bond under Section 110 of Cr.P.C., with two sureties in M.C.No.602 of 2020. Subsequently, on 23.06.2020, another case in Crime No.1325 of 2020 under Sections 392, 397 and 506(ii) of IPC was registered against the petitioner by the respondent Police. On the report of the respondent Police, the Executive Magistrate initiated proceedings under Section 122(1)(b) of Cr.P.C., and passed the impugned order. Against the impugned order, the petitioner approached this Court by way of revision.

3.On the side of the petitioner, it is stated that the earlier petition was dismissed by this Court on the ground that there are previous cases pending against the petitioner. It is stated that one of the ground case was filed by a person, who is having previous motive. Even in the complaint, he has admitted that he has paid fine in a case filed against him by the petitioner. The copy of the FIR in Crime No.263 of 2020 was filed by the petitioner to substantiate the claim. The petitioner is in custody for the past five months and prayed that the impugned order to be set aside.

4.On the side of the prosecution, it is stated that the copies were furnished to the petitioner. Sufficient opportunity was given to the petitioner. The petitioner cross examined some of the witness and that the impugned order was passed only after due and proper enquiry and after following due process of law. The impugned order was passed by the Executive Magistrate and prayed the petition to be dismissed.

5.A perusal of the records reveals that the petitioner is in custody for the past five months. He almost served $\frac{1}{2}$ of the period imposed by the Administrative Executive Magistrate and the Deputy Commissioner of Police, Law and Order, Madurai.

6.Considering the period of incarceration and considering the fact that one of the previous case filed by a person having pervious motive, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

7.Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the appeal and the petitioner is ordered to be released on bail on the following conditions:

- (i)the petitioner is directed to 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 Judicial

<https://hcservices.hcscs.gov.in/hcservices> No.VI, Madurai ;



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

(iii) the petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

sd/-
07/12/2020

/ 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 ADMINISTRATIVE EXECUTIVE MAGISTRATE
AND THE DEPUTY COMMISSIONER OF POLICE,
LAW AND ORDER, MADURAI.
2. THE JUDICIAL MAGISTRATE No.VI, MADURAI.
3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.
4. THE INSPECTOR OF POLICE,
LAW AND ORDER, E3, ANNA NAGAR, (LAW AND ORDER) MADURAI CITY.
5. THE OFFICER INCHARGE,
SUB JAIL, VIRUDHUNAGAR, VIRUDHUNAGAR DISTRICT.
6. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.GOKUL, Advocate (SR-8005[I] dated 09/12/2020)

ORDER IN
CRL MP(MD) No.5090 of 2020
IN
CRL RC(MD) No.490 of 2020
Date : 07/12/2020

MRN

<https://hccvcs4201r3.dpr.in/fc/servlets/PrintServlet?ID=12.2020/3P/8C>