



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

Thursday, the Fifteenth day of October Two Thousand Twenty

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PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.5180 of 2020

IN

CRL RC(MD) No.577 of 2020

RATHISH

... PETITIONER/REVISION PETITIONER

Vs

STATE REP.BY
THE SUB INSPECTOR OF POLICE,
ALLINAGRAM POLICE STATION,
IN CRIME NO.155 OF 2010,
THENI DISTRICT.

... RESPONDENT/REVISION RESPONDENT

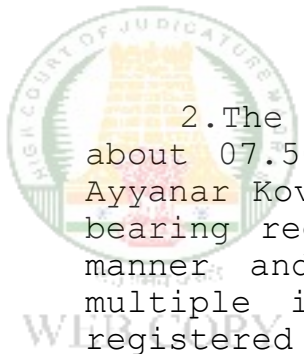
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the execution of sentence in C.A.No.3 of 2019 dated 30.06.2020 on the file of the learned Principal District and Sessions Judge, Theni Partly allowing the Judgment of the learned Judicial Magistrate, Theni in C.C.No.107 of 2010 dated 29.03.2016 pending disposal of the Criminal Revision Petition.

Prayer in CRL RC(MD) No.577 of 2020:

To admit this revision on file, to call for the records from the Lower Courts and set aside the Judgment of the Appellate Court passed by the Learned Principal District and Sessions Judge, Theni in C.A.No.3 of 2019 dated 30.06.2020 Partly allowing the Judgment of the Learned Judicial Magistrate, Theni in C.C.No.107 of 2010 dated 29.03.2016 by allowing this Revision.

ORDER : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.R.SHANKAR GANESH, Advocate for the petitioner and of MR.A.SARAVANA KUMAR, Government Advocate on behalf of the Respondent, while admitting the CRL RC., the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Principal District and Sessions Judge, Theni, in C.A.No.3 of 2019 dated 30.06.2019, till the disposal of the revision.



2.The case against the petitioner is that on 03.03.2010 at about 07.50 a.m., when the deceased was proceeding near Veerappa Ayyanar Kovil, Allinagaram from east west in his bicycle, a mini bus bearing registration No.TN-60D-8609 came in a rash and negligence manner and dashed against the bicycle, the deceased sustained multiple injuries. Hence, a case in Crime No.155 of 2010 was registered under Section 304(A) I.P.C against the petitioner. After trial, the learned Judicial Magistrate, Theni convicted the petitioner in C.C.No.107 of 2010, dated 29.03.2016 and sentenced him to undergo six months simple imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) in default to undergo two weeks simple imprisonment.

3.As against the said conviction and sentence, the petitioner has filed an Appeal in C.A.No.3 of 2019 before the learned Principal District and Sessions Judge, Theni and the said appeal was partly allowed by reducing the sentence to three months simple imprisonment alone. Aggrieved over the same, the petitioner preferred this Criminal Revision Case along with the suspension of sentence application.

4.On the side of the petitioner, it is stated that the material objects, which were alleged to have been present at the scene of occurrence were not seized by the prosecution. The evidence of eye witness P.W.1 and P.W.2 was not corroborated by independent witnesses. No independent witness was examined. There are much more points to be argued in the main revision and prayed the sentence to be suspended till the disposal of the revision.

5.On the side of the prosecution, it is stated that the prosecution has examined 8 witnesses and marked 9 documents and only after careful consideration of all the documents and evidence on record, the trial Court has rightly convicted the appellant. The post mortem report was marked as Ex.P2. M.V. Report was marked as Ex.P3. FIR was marked as Ex.P7 and prayed the petition to be dismissed.

6.Considering the nature of the offence, this Court is inclined to grant suspension of sentence till the disposal of the revision and the petitioners are 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 Magistrate, Theni ;

(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



(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 the disposal of the revision.

sd/-
15/10/2020

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

TO

- 1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
THENI.
- 2 THE JUDICIAL MAGISTRATE,
THENI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI.
- 4 THE SUB INSPECTOR OF POLICE,
ALLINAGRAM POLICE STATION,
THENI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.5180 of 2020
IN
CRL RC (MD) No.577 of 2020
Date :15/10/2020

MRN
JM/SMA/SAR IV/21.10.2020/3P/6C