



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

Thursday, the Seventeenth day of December Two Thousand and Twenty

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PRESENT

The Hon'ble Mrs.Justice R.THARANI

CRL MP (MD) No.7193 of 2020
IN
CRL RC (MD) No.688 of 2020

M.PRABAKARAN

... REVISION PETITIONER/SOLE ACCUSED

Vs

STATE THROUGH
THE INSPECTOR OF POLICE,
DEVAKOTTAI TALUK POLICE STATION,
SIVAGANGAI DISTRICT.

... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspension of the sentence in the C.C.No.30/2015, conviction passed the Learned Judicial Magistrate Court, Devakottai, Sivagangai District and confirmed by the Additional District and Sessions Judge, Sivagangai in C.A.No.55/2017, dated 04.03.2020 in Crime No.321 of 2014 on the file of the respondent police i.e., Inspector of Police, Devakottai Town Police Station, Sivagangai District, in Crime No.321 of 2014 on the file of the respondent police.

Prayer in CRL RC (MD) No.688 of 2020:

To call for the records relating to the case in C.C.No.30/2015 and set aside the conviction passed the Learned Judicial Magistrate Court, Devakottai and Sivagangai District, in C.C.No.30 of 2020, dated 25.05.2017 and confirmed by the Additional District and Sessions Judge, Sivagangai in C.A.No.55/2017, dated 04.03.2020 in Crime No.321 of 2014 on the file of the respondent police i.e., Inspector of Police, Devakottai Town Police Station, Sivagangai District.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.K.RAMANATHAN, Advocate for the petitioner and of MR.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Additional Sessions Judge, Sivagangai in C.A.No.55 of 2017 dated 04.03.2020, till the disposal of the revision.



2.The case against the petitioner is that due to wordy quarrel, the petitioner abused the defacto complainant in filthy language and assaulted him with iron rod and caused grievous injury to the defacto complainant. A case was registered against the petitioner in Crime No.321 of 2014 under Sections 294(b) and 326 of IPC and the same was taken on file as C.C.No.30 of 2015 before the learned Judicial Magistrate, Devakottai. The learned Judge found the petitioner not guilty under Section 294(b) of IPC but the Court found the petitioner guilty under Section 326 of IPC and sentenced him to undergo two years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) in default to undergo one month simple imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner has filed an appeal in C.A.No.55 of 2017 before the learned Additional District and Sessions Judge, Sivagangai. The appeal was dismissed and the conviction and sentence imposed by the trial Court is confirmed. Against which, the petitioner filed the present Criminal Revision Case. Along with revision, the petitioner filed this petition for suspension of sentence till the disposal of the appeal.

3.On the side of the petitioner, it is stated that except P.W.1, no other witnesses has supported the case of the prosecution. P.W.4 and P.W.5 stated to be the eye witnesses have turned hostile and there are much more points to be argued in the main revision case.

4.On the side of the prosecution, it is stated that the prosecution has examined 8 witnesses and marked 8 documents. The conviction and sentence imposed by the trial Court was confirmed by the first appellate Court. The petitioner has not surrendered himself before the trial Court. The petitioner has not taken any steps to file an exemption petition and hence, there is no question of suspension of sentence and prayed to dismiss the petition.

5.On the side of the petitioner, it is stated that due to covid situation, the petitioner could not file the suspension of sentence petition at the earlier stage and prayed the petition to be allowed.

6.It is seen that the first appellate Court has passed an order on 04.03.2020. The petitioner has not approached this Court in time. The petitioner has not filed any petition for exemption.

7.In the above circumstances, it is proper for the petitioner to surrender himself before the trial Court and then to approach this Court.



8.Hence, this Criminal Miscellaneous Petition is dismissed and the petitioner is at liberty to file approach this Court, after his surrender before the lower Court.

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sd/-
17/12/2020

/ 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 ADDITIONAL DISTRICT AND SESSIONS JUDGE,
SIVAGANGAI.
2. DO-THROUGH : THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
SIVAGANGAI DISTRICT.
3. THE JUDICIAL MAGISTRATE, DEVAKOTTAI.
4. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
5. THE INSPECTOR OF POLICE,
DEVAKOTTAI TALUK POLICE STATION,
SIVAGANGAI DISTRICT.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP (MD) No.7193 of 2020
IN
CRL RC (MD) No.688 of 2020
Date :17/12/2020

MRN

TE/SMA/SAR-IV : 22/12/2020 : 3P/7C

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