



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

Tuesday, the Twenty Eighth day of January Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) Nos.11359 & 11360 of 2019

IN

CRL A(MD) No.609 of 2019

KOMESHWARAN

... PETITIONER/ APPELLANT
IN BOTH THE PETITIONS

Vs

STATE REP. BY
THE SUBINSPECTOR OF POLICE
VEERAVANALLUR POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.363/2012)

... RESPONDENT/ RESPONDENT
IN BOTH THE PETITIONS

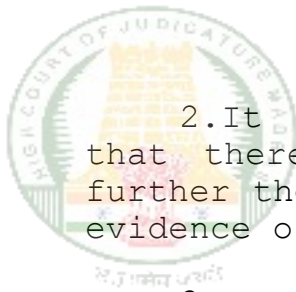
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence passed against me by the Learned III Additional Sessions Judge, Tirunelveli in Crl.A.No.157/2018 dated 18.11.2019 pending disposal of the above Crl.A.(MD).No.609/2019.

Prayer in CRL MP(MD). 11360/ 2019 :

To grant exemption from surrendering before the Court passed Judgment by the Learned III Additional Sessions Judge, Tirunelveli in Crl.A.No.157/2018 dated 18.11.2019 pending disposal of the above Crl.A.(MD). No.609/2019.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of MR.D.SELVANAYAGAM, Advocate for the petitioner in both the petitions and of MR.V.NEELAKANDAN, Additional Public Prosecutor on behalf of the Respondent in both the petitions, the court made the following order:-

The learned counsel for the petitioner submitted that the petitioner has been convicted by the learned trial judge, for the alleged offence under Section 392 of IPC, and sentenced him to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.10,000/-, in default to undergo simple imprisonment for a period of three months in C.C.No.3 of 2014 on the file of the learned III Additional District and Sessions Judge, Tirunelveli.



2.It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

3.It is submitted by the learned Additional Public Prosecutor that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and he strongly opposed to grant suspension of sentence.

4.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

5.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

6.Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned III Additional District and Sessions Judge, Tirunelveli, and on further condition that the petitioner shall appear before the said Court daily twice i.e. at 10.30 a.m and 5.00 p.m pending appeal.

7.The petitioner is exempted from surrendering before the trial Court for the purpose of furnishing sureties.

sd/-
28/01/2020

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

TO

1 THE III ADDITIONAL SESSIONS JUDGE,
TIRUNELVELI.

<https://hcservices.ecourts.gov.in/hcservices/>



2 THE MUNSIF CUM DISTRICT
MAGISTRATE JUDGE, CHERANMAHADEVI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

4 THE SUB INSPECTOR OF POLICE,
VEERAVANALLUR POLICE STATION,
TIRUNELVELI DISTRICT.

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

+2 CC to M/s.D.SELVANAYAGAM, Advocate SR- 1762 & 1763

ORDER
IN
CRL MP(MD) Nos.11359
& 11360 of 2019
IN
CRL A(MD) No.609 of 2019
Date :28/01/2020

VSD
JM/VR/SAR 2/29.01.2020/3P/8C