

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.M.P.No.5965 of 2021

in

Crl. R.C. No.333 of 2021

Sekar

... Petitioner

Vs.

State Represented by its
The Sub Inspector of Police,
Erumapatty Police Station,
Namakkal District.
Crime No. 128 of 2018.

... Respondent

PRAYER: Criminal Miscellaneous petition has been filed under Section 397(1) and 439 of Cr.P.C praying to suspension of sentence imposed in C.C.No.236 of 2020 dated 01.12.2020 passed by the Judicial Magistrate, Sendhamangalam, Namakkal and confirmed in C.A.No.5 of 2021 dated 09.04.2021 passed by the learned Principal Sessions Judge, Namakkal pending disposal of the Criminal Revision Petition.

For Petitioner : M/s. T. Fenn Walter Associates

For Respondent : Mr.L.Baskaran

ORDER

सत्यमेव जयते

The petitioner was charged and tried before the Judicial Magistrate Sendamangalam, in C.C. No.236/2020 and on being found guilty, the petitioner was convicted for the offence u/s 4 of TNPHW Act and sentenced to undergo simple imprisonment for a period of 6 months and to pay a fine of Rs.10,000/- and sentenced to undergo simple imprisonment for 3 weeks in default of fine and the same was confirmed by the Principal Sessions Judge of Namakkal in C.A. No.5/2021 dated 09.04.2021. Aggrieved by the same, while Criminal Revision has been filed, pending disposal of the Criminal Revision, the petitioner has prayed for suspension of the substantive sentence of imprisonment.

2. Learned counsel appearing for the petitioner submits that there are infirmities and inconsistencies in the testimony of the prosecution witnesses and the petitioner has a bright chance of succeeding in the revision and, hence, prays for suspension of sentence of imprisonment.

3. Per contra, the learned Government Advocate appearing for the Official respondent submitted that the prosecution, through cogent and convincing testimony, has proved the offence committed by the accused and the courts below, on proper appreciation of the oral and documentary evidence has convicted and sentenced the accused and, therefore, this petition for suspension of sentence is liable to be dismissed.

4. This Court gave its careful consideration to the submissions on either side and also perused the materials available on record.

5. On a consideration of the submissions of either side and taking into consideration the fact that the revision is not likely to be taken up for hearing in the near future and also in view of the present pandemic situation, this Court is of the considered view that this is a fit case for grant of suspension of sentence of imprisonment. Accordingly, this Court is inclined to suspend the substantive sentence of imprisonment imposed on the petitioner/accused.

6. Accordingly, the miscellaneous petition is allowed and the substantive sentence of imprisonment alone stands suspended pending disposal of the revision and the petitioner is directed to be enlarged on bail on condition that the petitioner executes a bond for a sum of Rs.10,000/- with two sureties, each for a like sum, to the satisfaction of the Judicial Magistrate, Sendamangalam, Namakkal District, within a period of four weeks from the date of receipt of a copy of this order and on further condition that the petitioner shall appear before the said Court at 10.30 a.m. on the 1st working day of every English calendar month until further orders. In case of any difficulty in executing the said bond along with the sureties before the concerned Magistrate within the time stipulated above, the petitioner is permitted to file appropriate petition within a period of four week therefrom before the concerned Magistrate for extension of time for executing the bond along with sureties and if any such application is filed, the concerned Magistrate shall decide on the grant of extension of time for accepting the bond and sureties in

accordance with law. Failing filing of any such application within the time prescribed above, the bail granted by this Court would stand automatically vacated.

-sd/-
20/05/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL SESSIONS JUDGE,
NAMAKKAL.

2 THE JUDICIAL MAGISTRATE,
SENDAMANGALAM, NAMAKKAL DISTRICT.

3 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUB INSPECTOR OF POLICE
ERUMAPATTI POLICE STATION,
NAMAKKAL DISTRICT.

+1 C.C. to M/S.T.FENN WALTER ASSOCIATES Advocate on payment of
necessary charges SR.No.6270

Order

in
CRL MP.5965/2021

in
CRL.RC.333/2021

Date :20/05/2021

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