



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Third day of November Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION NOS.6093 AND 6094 of 2021

IN CRL.RC.NO.360 of 2021

1 RATHINASABAPATHI [PETITIONERS
2 PONNUSAMY IN CRL.MP.NOS.6093&6094/2021]
3 R.KRISHNAMOORTHY

Vs

1 STATE REP. BY [1st RESPONDENT/COMPLAINANT
THE INSPECTOR OF POLICE, IN CRL.MP.NOS.6093&6094/2021]
DISTRICT CRIME BRANCH,
NAMAKKAL.
(CRIME NO.44/2004)

2 BOOPATHY [2ndRESPONDENT/COMPLAINANT
IN CRL.MP.NOS.6093&6094/2021]

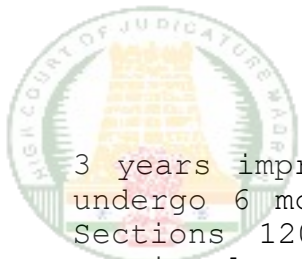
Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.R.C.NO.360 of 2021 on the file of the High Court, the High Court will be pleased to

(i)Suspend the sentences of imprisonment passed by the learned Principal District and Sessions Judge, Namakkal vide Judgment dated 06.01.2021 in C.A.No.17/2019 and enlarge them on bail, pending disposal of Crl.R.C.No.360/2021 (IN CRL.MP.NO.6093/2021)

(ii)Exempt them from surrendering before the Judicial Magistrate Court, Rasipuram in CC.NO.35/2008 and thus render justice. (CRL.MP.NO.6094/2021 IN CRL.RC.NO.360/2021)

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.R.C.NO.360 of 2021 on the file of the High Court and upon hearing the arguments of MR.T.R.SIVARAM, Advocate for the Petitioners (IN BOTH PETITIONS) and of MR.S.SUGENDRAN Govt. Advocate (Crl. Side) for 1st Respondent (IN BOTH PETITIONS) and of M/S.M.ELANGO for 2nd Respondent (IN BOTH PETITIONS) the court made the following order:-

Criminal miscellaneous petition in Crl.MP.No.6093 of 2021 is filed seeking to suspend the sentence imposed on the petitioners in C.A.No.17 of 2019 on the file of the learned Principal Sessions Judge, Namakkal, Convicting and sentencing the petitioners to undergo



3 years imprisonment and imposed a fine of Rs.1,000/- in default to undergo 6 months simple imprisonment for each of the offences under Sections 120(B), 467 and 419 r/w 120(B) IPC, which reversed the acquittal judgment made by the learned Judicial Magistrate, Rasipuram, Namakkal District in C.C.No.35 of 2008. The Crl.MP.No.6094 of 2021 is filed to exempt the petitioners from surrendering before the Judicial Magistrate, Rasipuram.

2. The learned counsel for the petitioners would submit that the petitioners along with yet another accused was tried in CC.No.35 of 2008 on the file of the Judicial Magistrate, Rasipuram for the offences under Sections 120(b), 467, 419 r/w.120(b) IPC. The trial Court had acquitted the accused, as against the order of acquittal the second respondent/defacto complainant had preferred the Crl.A.No.17 of 2019 on the file of the Principal Sessions Judge, Namakkal. The appellate Court by an order dated 06.01.2021 reversed the order of acquittal and convicted the petitioners.

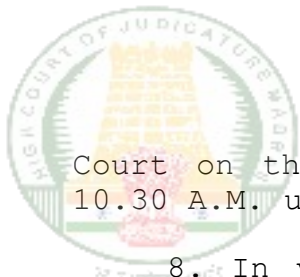
3. The learned counsel would further submit that the appellate Court has not properly appreciated the evidence available on record and there is every fair chances for the petitioners to be acquitted in the revision petition. He would further submit that the co-accused/A4 in this case had preferred Crl.RC.No.325 of 2021 before this Court and this Court by an order dated 13.05.2021 in Crl.MP.No.5925 of 2021 in Crl.RC.No.325 of 2021 had suspended the substantive sentence of imprisonment on condition.

4. The learned Government Advocate (crl. side) appearing for the first respondent would submit that the appellate Court has appreciated the entire evidence had given elaborate reason for convicting and sentencing the accused.

5. The learned counsel for the second respondent/defacto complainant would submit that the appellate Court has not properly appreciated the evidence, however, the appellate Court after duly appreciating the evidence had reversed the order of acquittal and found the petitioners guilty.

6. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioners, there are arguable points, which requires consideration in the revision and the revision cannot be taken up for hearing in the near future, this Court is inclined to suspend the sentence imposed by the Court below and release the petitioners on bail.

7. Accordingly, this miscellaneous petition in Crl.MP.No.6093 of 2021 is ordered and the sentence imposed by the Court below vide judgment dated 06.01.2021 in C.A.No.17 of 2019 on the file of the learned Principal Sessions Judge, Namakkal, is hereby suspended and the petitioners are directed to be enlarged on bail, on condition that the petitioners 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 Judicial Magistrate, Rasipuram, Namakkal District and the petitioners shall appear before the said



Court on the first working day of every English Calender month at 10.30 A.M. until further orders.

8. In view of the order passed in Crl.MP.No.6093 of 2021, the Crl.MP.No.6094 of 2021 seeking exemption from surrendering the accused is dismissed.

-sd/-

23/11/2021

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,
RASIPURAM.

3 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, NAMAKKAL,
NAMAKKAL DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S.T.R.SIVARAM Advocate on payment of necessary charges SR.NO.13303

Order
in
CRL.MP.NOs.6093&6094/2021
AND
CRL.R.C.360/2021
Date :23/11/2021

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format

CSK 25/11/2021