



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

Thursday, the Twenty First day of January Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.343 of 2021
in
CRL A(MD)No.25 of 2021

1 MUTHUKUMAR
2 BALAKRISHNAN

... PETITIONERS/ APPELLANTS

Vs

THE INSPECTOR OF POLICE
PERUMALPURAM POLICE STATION,
TIRUNELVELI.

... RESPONDENT/ RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed by the learned I Additional Sessions Judge, Tirunelveli in S.C.No.837 of 2016 dated 18.12.2020, pending disposal of the main Criminal appeal.

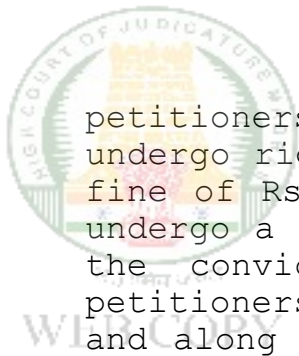
PRAYER IN CRL A(MD)No.25 of 2021:

To allow this appeal and acquit the appellants from the charge, by setting aside the judgment passed by the learned I Additional Sessions Judge, Tirunelveli in S.C.No.837 of 2016 dated 18.12.2020.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.C.ARULVADIVEL @ SEKAR, Advocate for the petitioners and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, While admitting the CRL.A., the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned I Additional Sessions Judge, Tirunelveli in S.C.No.837 of 2016, dated 18.12.2020, till the disposal of the appeal.

2.A case in Crime No.611 of 2013 was registered against the petitioners by the respondent police under Section 304(ii) of IPC. The learned I Additional Sessions Judge, Tirunelveli, has taken up the case on file in S.C.No.837 of 2016. The trial Court found the



petitioners guilty under Section 304(A) of IPC and sentenced them to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) each, in default to undergo a further period of six months simple imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioners have filed a criminal appeal in Crl.A.(MD)No.25 of 2021 and along with the appeal, they filed this petition for suspension of sentence.

3.On the side of the petitioners, it is stated that the deceased died due to electrocution, while he was working in the first block of Armed Reserve Police Quarters. The deceased touched the wire and was electrocuted. The allegation against the petitioners is negligence of duty. P.W.1 was not an eye-witness and there is a delay in lodging the complaint. The evidence of P.W.2 and P.W.3 are contradictory and that there is no material to prove that the petitioners were working as supervisor and the engineer in the construction work. There are much more points to be argued in the main appeal and prayed the sentence to be suspended till the disposal of the appeal.

4.On the side of the prosecution, it is stated that the prosecution has examined 11 witnesses (P.W.1 to P.W.11) and marked 12 documents (Ex.P1 to P.12) and marked one M.O.1 and the case was proved by the prosecution beyond all reasonable doubts. The trial Court rightly convicted the petitioners and prayed the petition to be dismissed.

5.Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioners and considering the fact that there are some arguable points for the petitioners in the appeal and the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioners herein are entitled to the relief of suspension of sentence.

6.Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the appeal and the petitioners are ordered to be released on bail on the following conditions:

(i)the petitioners are 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 I Additional Sessions Judge, Tirunelveli;

(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 to ensure their identity ;



(iii) the petitioners 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 appeal.

sd/-
21/01/2021

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/ /2021

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 I ADDITIONAL SESSIONS JUDGE, TIRUNELVELI.

2 THE INSPECTOR OF POLICE
PERUMALPURAM POLICE STATION, TIRUNELVELI.

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

ORDER
IN
CRL MP(MD) No.343 of 2021 in
CRL A(MD) No.25 of 2021
Date :21/01/2021

MS/VR/SAR-2/22.01.2021/3P.4C