



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

Wednesday, the Third day of February Two Thousand and Twenty One

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PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.417 of 2021

IN

CRL A(MD) No.352 of 2020

SAPPANI @ MURUGESAN

... PETITIONER/
APPELLANT/ACCUSED NO.1

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
ABIRAMAM POLICE STATION,
ABIRAMAM,
RAMANATHAPURAM DISTRICT.
CRIME NO.53 OF 2006

... RESPONDENT/
RESPONDENT/COMPLAINANT

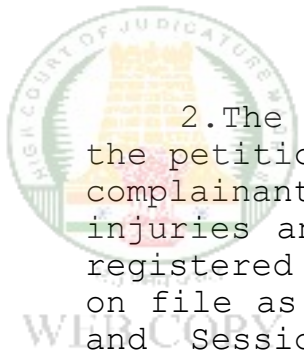
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order to suspend the sentence as imposed on the petitioner/appellant by means of a judgment dated 23.09.2020 made in Sessions Case No.28 of 2007 on the file of the Hon`ble Additional District Sessions Court, Paramakudi, Ramanathapuram District forthwith and thereby enlarge the Petitioner/Appellant on bail, pending disposal of the above Criminal Appeal.

Prayer in CRL A(MD) No.352 of 2020:

To allow the above Appeal and consequently set aside the conviction and sentence as imposed on him by the Hon`ble Additional District Sessions Court, Paramakudi, Ramanathapuram District made in Sessions Case No.28 of 2007 dated 23.09.2020 forthwith.

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.PALANI VELAYUTHAM.S., Advocate for the petitioner and of Mrs.S.BHARATHI, Government Advocate on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed on the petitioner in S.C.No.28 of 2007, on the file of the Additional District Sessions Judge, Paramakudi, Ramanathapuram District.



2.The allegation against the petitioner is that on 28.04.2006, the petitioner and others conspired together and waylaid the defacto complainant and attacked him with dangerous weapons and caused him injuries and committed robbery. A case in Crime No.53 of 2006 was registered against the petitioner and others and the same was taken on file as C.C.No.28 of 2007 on the file of the Additional District and Sessions Judge, Paramakudi. The Additional District and Sessions Judge, Paramakudi, found the petitioner and others not guilty under Section 120B I.P.C and acquitted them and found the petitioner and four others guilty under Section 395 r/w. 397 I.P.C.. The petitioner was sentenced to undergo seven years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo a further period of six months simple imprisonment. Against the conviction and sentence, the petitioner preferred an Appeal in Crl.A.(MD)No.352 of 2020. Along with the appeal, the petitioner has filed the present petition for suspension of sentence.

3.On the side of the petitioner, it is stated that the petitioner has paid the fine amount. The allegation is that the petitioner has robbed three sovereigns of gold and two wheeler. The eye witnesses Manikandan was not examined by the prosecution and another eye witness, viz. Neelamegam/P.W.16 turned hostile. In the Accident Register, the victim has stated that he was attacked by four unknown persons, whereas the case was registered against eight persons. P.W.10 has deposed that the finger print did not match that of the accused. The petitioner is in custody from 23.09.2020 onwards. He was on bail and appeared before the trial Court regularly during the trial. It is stated that there are much more points for arguments in the main appeal and prayed the sentence to be suspended.

4.On the side of the prosecution, it is stated that the prosecution has examined 43 witnesses and marked 37 documents and 30 material objects. Identification parade report was marked as Ex.P4. Wound certificate was marked as Ex.P6. Finger print expert opinion was marked as Ex.P8. The confession statements of the accused were marked as Exs.P22, 24, 27, 30 and 31. Finger Print expert was examined as P.W.30. The evidence of P.W.27, 30 and 42 corroborated the evidence of P.W.1. The injuries sustained by P.W.1 was corroborated by the evidence of P.W.29. The prosecution has proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5.It is seen that the petitioner is in custody from 23.09.2020 onwards. It is seen that there are some points for consideration in the main appeal. There is no possibility for the appeal to be taken up for hearing in the near further. In the above circumstances, this Court is inclined to suspend the sentence.



6. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on the following conditions:-

(i) the petitioner is directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Additional District and Sessions Judge, Paramakudi.

(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 their valid identity card to ensure their identity.

(iii) the petitioner 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 or until further orders.

sd/-

03/02/2021

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

TO

- 1 THE ADDITIONAL DISTRICT SESSIONS JUDGE,
PARAMAKUDI, RAMANATHAPURAM DISTRICT.
- 2 THE INSPECTOR OF POLICE,
ABIRAMAM POLICE STATION,
ABIRAMAM, RAMANATHAPURAM DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON,
COIMBATORE DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP(MD) No.417 of 2021

IN

CRL A(MD) No.352 of 2020

Date : 03/02/2021

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