



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

Monday, the First day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.960 of 2021
in Crl.A.(MD)No.60 of 2021

1 RAJA
2 POONGODI

... PETITIONERS/ APPELLANTS

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
BODI TALUK POLICE STATION,
THENI DISTRICT.
IN CRIME NO.30/2012.

... 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 on the petitioners in S.C.No.66 of 2014, dated 16.12.2020 on the file of the Principal Sessions Judge, Theni, pending disposal of the above Criminal Appeal.

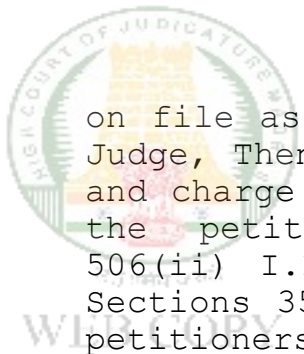
PRAYER IN Crl.A.(MD)No.60 of 2021:

To call for the records and to set aside the conviction and sentence imposed on the appellants dated 16.12.2020 in S.C.No.66 of 2014, on the file of the Principal Sessions Judge, Theni and thereby render justice.

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.R.RAMASAMY, Advocate for the petitioners and of Mr.KR.BHARATHI KANNAN, Government Advocate on behalf of the Respondent, While admitting the Criminal Appeal, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the Principal Sessions Judge, Theni, in S.C.No.66 of 2014 dated 16.12.2020 till the disposal of the appeal.

2.The case against the petitioners is that on 18.01.2012, the petitioners assaulted the bus driver and conductor and caused the damage to the bus bearing Registration No.TN-57-N-1444. A case was registered in Crime No.30 of 2012 under Sections 294(b), 353, 332, 300(1), I.P.C. and Section 3(1) of TNPPDL Act and the same was taken

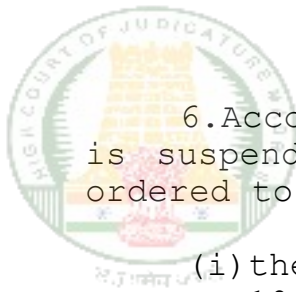


on file as S.C.No.66 of 2014 on the file of the Principal Sessions Judge, Theni. The petitioners are A1 and A3 in the case and A2 died and charge against A2 in the case abated. The Sessions Judge, found the petitioners / A1 and A3 not guilty under Section 294(b) and 506(ii) I.P.C and found the petitioners / A1 and A3 guilty under Sections 353, 332 and 427 I.P.C.. The trial Court convicted the petitioners/ A1 and A3 under Section 353 of IPC, and sentenced them to undergo two years rigorous imprisonment each. The trial Court convicted the petitioners / A1 and A3 under Section 332 I.P.C and sentenced them to undergo three years rigorous imprisonment each and also convicted the petitioners / A1 and A3 under Section 427 I.P.C and sentenced them to undergo two years rigorous imprisonment each and to pay a fine of Rs.5,000/- each (Totally Rs.10,000/- (Rupees Ten Thousand only)), in default, to undergo a further period of six months rigorous imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal in Crl.A.(MD)No.60 of 2021 and along with the appeal, they have filed this petition for suspension of sentence.

3.On the side of the petitioners, it is stated that the prosecution has examined nine witnesses and out of the nine witnesses P.W.1 to P.W.3 were eye-witnesses and they turned hostile. P.W.3 has deposed that he could not identify the accused. No charge was framed under Section 427 I.P.C. and the beer bottle alleged to have been used for the commission of the offence was not seized by the police. Both the driver and the conductor of the bus did not identify the accused and they turned hostile. There is a delay of five months in producing the Material Object before the Court. The petitioners are in custody for the past 70 days 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 9 witnesses [P.W.1 to P.W.9] and marked 13 documents [Ex.P1 to Ex.P13] and one Material Object [M.O.1]. Accident Register of the victims/ P.W.1 and P.W.2 were marked as Ex.P8 and Ex.P9. The valuation certificate of the damage caused by the petitioners was marked as Ex.P6. The Motor vehicle report was marked as Ex.P7. The evidence of P.W.6 proved Ex.P6 and the same was corroborated by the evidence of P.W.7 and Ex.P7. 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.It is seen that the petitioners are in custody for the past 70 days. There are some arguable points for consideration in the appeal. The Criminal Appeal is not likely to be taken up for final hearing in the near future. Hence, this Court is of the view that the petitioner herein is 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 ordered to be released on bail on the following conditions:

(i) the petitioners 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 Principal Sessions Judge, Theni;

(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/-
01/03/2021

/ TRUE COPY /

/ /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 PRINCIPAL SESSIONS JUDGE, THENI
- 2 THE INSPECTOR OF POLICE,
BODI TALUK POLICE STATION, THENI DISTRICT.
- 3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 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.

- +1 CC to M/s.R.RAMASAMY, Advocate (SR-1598[I] dated 01/03/2021)
+1 CC to M/s.R.RAMASAMY, Advocate (SR-1596[I] dated 01/03/2021)

ORDER IN
CRL MP(MD) No.960 of 2021 in
Crl.A.(MD) No.60 of 2021
Date : 01/03/2021

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