



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

Friday, the Fifth day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.1310 of 2021
in
CRL RC(MD)No.112 of 2021

S.KANNAN

... PETITIONER/REVISION PETITIONER/
APPELLANT/SOLE ACCUSED

Vs

THE STATE REP.BY
THE SUB INSPECTOR OF POLICE
BODINAYAKANUR TOWN POLICE STATION,
BODINAYAKANUR, THENI DISTRICT.
CRIME NO.284 OF 2013.

... RESPONDENT/REVISION 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 suspend the sentence by granting bail in C.A.No.28 of 2019 dated 31.1.2020 on the file of the Learned Additional District and Sessions Judge(FTC), Theni in C.C.No.198 of 2013 dated 12.3.2019 on the file of Learned Judicial Magistrate, Bodinayakanur, Theni District till the disposal of the above Criminal Revision Petition.

PRAYER IN CRL RC(MD)No.112 of 2021:

Pleased to admit this revision on file, to call for the records from the lower court and to duly set aside the orders passed by the learned Additional District and Sessions Judge(FTC), Theni, in C.A.No.28 of 2019 dated 31.01.2020 wherein he has confirmed the conviction and sentence passed by the learned Judicial Magistrate Court, Bodinayakanur, Theni District in C.C.No.198 of 2013 dated 12.03.2019 by allowing this Revision.

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.SENTHIL KUMAR, Advocate for the petitioner and of Mr.KR.BHARATHI KANNAN, Government Advocate (Crl.Side) on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

The petitioner filed this petition to suspend the sentence imposed on the petitioner by the the Additional District and Sessions Judge, (FTC), Theni, dated 31.01.2020 made in C.A.No.28 of



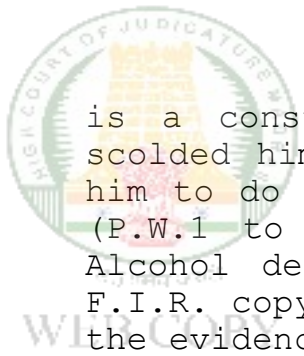
2019 confirming the sentence imposed by the Judicial Magistrate, Bodinayakanur, Theni, in C.C.No.198 of 2013, dated 12.03.2019 and to suspend the sentence imposed on the petitioner pending disposal of the Criminal Revision.

2.The case against the petitioner is that on 14.06.2014, at about 17.15 hours, the petitioner and another person in a drunken mood, scolded the defacto complainant in filthy language and prevented him from doing his official duty. A case in Crime No.284 of 2013 under Sections 294(b), 353, 506(i) I.P.C. and Section 4(i) (j) of Tamil Nadu Prohibition Act, 1937 and the same was taken on filed as C.C.No.198 of 2013 on the file of the Judicial Magistrate, Bodinayakanur, Theni. The Judicial Magistrate found the petitioner guilty under Section 294(b) I.P.C and sentenced him to undergo three months simple imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo a further period of one month simple imprisonment and convicted the petitioner under Section 353 I.P.C. and sentence him to undergo two years simple imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo a further period one month simple imprisonment and convicted the petitioner under Section 506(i) I.P.C and sentence him to undergo two years simple imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo a further period of one month simple imprisonment and convicted the petitioner under Section 4(1)(j) of Tamil Nadu Prohibition Act and sentenced him to undergo one month simple imprisonment and to pay a fine of Rs.500/-, in default, to undergo a further period of one month simple imprisonment.

3.As against the said conviction and sentence, the petitioner has preferred an appeal in C.A.No.28 of 2019 before the Additional District and Sessions Judge, (FTC), Theni. The first appellate Court has also confirmed the conviction and sentence, by its common judgement dated 31.01.2020. Aggrieved by the same, the petitioners preferred a revision in Crl.R.C.(MD)No.112 of 2021. Along with the revision, the petitioner filed this petition for suspension of sentence.

4. On the side of the petitioner, it is stated that the petitioner is in custody for the past 13 months and the total sentence itself is only two years. No independent witness was examined by the prosecution. The alleged eye witnesses were not even cited as a witness in the list of witnesses. The defacto complainant himself is only a police official. P.W.5 and P.W.6 turned hostile and they did not support the case of the prosecution and that there are much more points for arguments in the main revision and prayed the sentence to be suspended till the disposal of the revision.

5.On the side of the respondent, it is stated that the petitioner was found guilty by the trial Court and the conviction was confirmed by the first Appellate Court. The defacto complainant



is a constable, on patrolling, the petitioner and other person scolded him in filthy language and attacked him and also prevented him to do official duty. The prosecution has examined 9 witnesses (P.W.1 to P.W.9) and marked 5 documents (Ex.P1 to Ex.P5). The Alcohol detection test report of the petitioner marked as Ex.P3. F.I.R. copy marked as Ex.P4. The evidence of P.W.2 and 8 corroborate the evidence of P.W.1 and the prosecution has proved the case beyond all reasonable doubts. If the sentence is suspended, there is a possibility of the petitioner escaping the clutches of law and prayed the petition to be dismissed.

6.It is seen that the conviction under all the charges are to run concurrently as per the judgment of the trial Court. From the total period of two years, the petitioner has already undergone 13 months imprisonment. Considering the period of incarceration undergone by the petitioner sofar, this Court is inclined to allow this petition. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail, on his executing own bond for a sum of Rs.10,000/- (Rupees ten thousand only) with one surety for a like sum to the satisfaction of the Judicial Magistrate, Bodinayakanur, Theni, and on further condition that:

(i) the surety shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their any valid identity proof to ensure identity.

(ii) 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 revision

sd/-
05/03/2021

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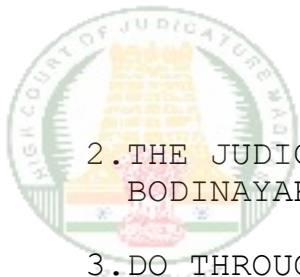
/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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 ADDITIONAL DISTRICT AND SESSIONS JUDGE (FTC),
THENI.

<https://hcservices.ecourts.gov.in/hcservices/>



2.THE JUDICIAL MAGISTRATE,
BODINAYAKANUR, THENI DISTRICT.

3.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.

4.THE SUB INSPECTOR OF POLICE
BODINAYAKANUR TOWN POLICE STATION,
BODINAYAKANUR, THENI DISTRICT.

5.THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1 CC to Mr.R.SENTHIL KUMAR, Advocate (SR-1894[I] dated 08/03/2021)

ORDER
IN
CRL MP(MD) No.1310 of 2021
in
CRL RC(MD)No.112 of 2021
Date :05/03/2021

LS
TK/VR/SAR.1/08.03.2021/4P/8C