



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

Tuesday, the Sixteenth day of February Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) Nos.915 and 916 of 2021
in
CRL RC(MD)No.67 of 2021

K.DEVENDIRAN

... PETITIONER/PETITIONER
IN BOTH PETITIONS

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
KARUR.
CRIME NO.3 OF 2015.

... RESPONDENT/ RESPONDENT
IN BOTH PETITIONS

PRAYER IN CRL MP(MD)No.915 of 2021 in CRL RC(MD)No.67 of 2021:

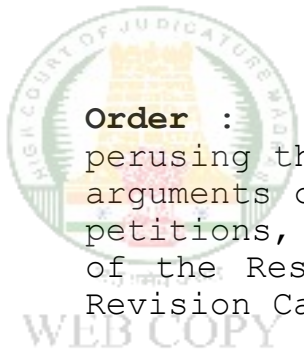
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed upon the Petitioner passed by the Learned Judicial Magistrate No. II Kulthalai in C.C No. 120/2015 dated 26.09.2019 confirmed by the judgment passed by the Learned District Judge, Karur in C.A No. 92 of 2019 dated 10.09.2020 pending disposal of the criminal Revision Petition.

PRAYER IN CRL MP(MD)No.916 of 2021 in CRL RC(MD)No.67 of 2021:

To Exempt the Petitioner from surrendering on the basis of the judgment passed by the Learned Judicial Magistrate No.II Kulithalai in C.C.No.120/2015 dated 26.09.2019 confirmed by the judgment passed by the Learned District Judge, Karur in C.A No. 92 of 2019 dated 10.09.2020 pending disposal of the criminal Revision Petition.

PRAYER IN CRL RC(MD)No.67 of 2021:

Pleased to call for the records of the District Judge, Karur in CRL A.No.92 of 2019 dated 10.09.2020 confirmed the conviction on the petitioner by the Learned Judicial Magistrate No.II, Kulithalai in C.C.No.120 of 2015 dated 26.09.2019 and set aside the same by allowing this revision petition.



Order : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.R.SARAVANAKUMAR, Advocate for the petitioner in both petitions, and of Mr.BHARATHI KANNAN, Government Advocate on behalf of the Respondent in both petitions, while admitting the Criminal Revision Case, the court made the following order:-

These petitions have been filed (i) to suspend the sentence imposed by the District Judge, Karur, in Criminal Appeal No.92 of 2019, dated 10.09.2020 confirming the judgment passed in C.C.No.120 of 2015, dated 26.09.2019 on the file of the Judicial Magistrate No.II, Kulithalai, till the disposal of the revision (ii) to exempt the petitioner from surrendering before the trial Court.

2.The case against the petitioner is that A1 executed a power deed in favour of A2/petitioner herein. A1 has informed A2/petitioner herein about the civil suit in O.S.No.216 of 2014 filed by his first wife and his children. When the Special Tahsildar, Backward Community and Minority Community was taking action to acquire the land, A1 has suppressed the fact about the pendency of the suit and that A2 has executed a sale deed on behalf of A1 in favour of the Government, on 24.06.2009 and they received Rs.9,22,299/- from the Government. A3 was the Village Administrative Officer, who accompanied the Commissioner appointed by the Court in O.S.No.216 of 2014, but, he is a Member in the Purchase Committee. A case was registered in Crime No.3 of 2015 against the petitioner and others and the same was taken on file as C.C.No.120 of 2015, before the Judicial Magistrate No.II, Kulithalai. The Judicial Magistrate No.II, Kulithalai, found the petitioner/A2, A1 and A3 not guilty under Section 406, 406 R/w. 34 I.P.C. and acquitted them and found A3 / Village Administrative Officer guilty under Section 420 r/w. 34 I.P.C. The petitioner / A2 and another accused /A1 were sentenced to undergo one year rigorous imprisonment each and to pay a fine of Rs.5,000/- each, in default, to undergo a further period of three months simple imprisonment under Section 420 I.P.C. and the Village Administrative Officer / A3 was sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.5,000/- , in default, to undergo a further period of three months simple imprisonment under Section 420 r/w. 34 I.P.C., by its judgment, dated 26.09.2019.

3.As against the said conviction and sentence, the petitioners have preferred an appeal in Criminal Appeal No.92 of 2019, before the District Judge, Karur. The first appellate Court has also confirmed the conviction and sentence, by its judgment dated 10.09.2020. Aggrieved by the order, the petitioners have preferred a revision case in Crl.R.C.(MD)No.67 of 2021. Along with the revision, they have filed the present applications (i) for suspension of sentence, pending disposal of the said revision and (ii) to exempt the petitioner from surrendering before the trial Court.



4. On the side of the petitioner, it is stated that the petitioner herein/A2 is only a power agent of A1 and he executed a sale deed in favour of the Government on behalf of A1. Only A1 suppressed the civil decree and the decree is of the year 1999 and the decree was not known to the petitioner herein and the general power of attorney was given to the petitioner only on 29.09.2008. A1 and A3 are liable for the offence and there is no evidence or document against the petitioner herein/ A2. The Government filed a claim petition in E.A.No.64 of 2015 in E.P.No.10 of 2015, wherein, the Government has accepted that A1 is the owner of the property and A3 accompanied the Commissioner in the suit and he was also a Member in the Purchase Committee and it is also admitted that possession is with the Government and there is no loss to the Government and there is no question of cheating as the possession of the property is with the Government. A1 is having other properties, if at all the complainant and others have any share, they can claim the other properties of A1. The petitioner herein / A2 is in custody for the past 15 days. There are much more points to be argued 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 A3 / Village Administrative Officer acquitted with A1 and A2. The petitioner / A2 executed a sale deed in favour of the Government. The prosecution has examined 8 witnesses and marked 27 documents. Ex.P4 is the power deed. The cheque given to A1 was marked as Ex.P6. Copy of the civil suit is marked as Ex.P15. The case was proved by the prosecution beyond all reasonable doubts and prayed the petition to be dismissed.

6. It is seen that the petitioner / A2 has executed a sale deed in favour of the respondent on behalf of A1. It is seen that there are some arguable points for consideration in the main Revision. Considering the facts and circumstances of the case and also considering the fact that the Criminal Revision Case is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

7. Accordingly, Crl.M.P.(MD)No.915 of 2021 is allowed and the substantive sentence of imprisonment alone is suspended and the petitioners are ordered to be released on bail on the following conditions:-

- (i) the petitioner is not exempted from surrendering before the trial Court and the petitioner is directed to surrender before the Judicial Magistrate No.II, Kulithalai, within a period of two weeks from the date of receipt of copy of this order;



(ii)the petitioner is 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 Judicial Magistrate No.II, Kulithalai;

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(iii)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 ;

(iv)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 or until further orders.

8. Accordingly, Crl.M.P.(MD)No.916 of 2021 is dismissed.

sd/-
16/02/2021

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

TO

1.THE DISTRICT JUDGE, KARUR.

2.THE JUDICIAL MAGISTRATE No II, KULITHALAI.

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

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

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

+1. C.C. to Mr.K.ELANGO VAN Advocate SR.No.1093

ORDER
IN
CRL MP(MD) Nos.915 and
916 of 2021 in
CRL RC(MD)No.67 of 2021
Date :16/02/2021

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TK/VR/SAR.4/18.02.2021/4P/7C

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