



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

Friday, the Nineteenth day of February Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) Nos.1106 and 1107 of 2021
in
CRL RC(MD)No.90 of 2021

KASINATHAN

... PETITIONER/APPELLANT/
ACCUSED No.2
IN BOTH PETITIONS

Vs

THE STATE REP.BY
THE FOREST RANGER,
WILD LIFE RANGE,
RAMANATHAPURAM.
W.L.O.R.NO.14 OF 2015

... RESPONDENT/RESPONDENT/
COMPLAINANT
IN BOTH PETITIONS

PRAYER IN CRL MP(MD)No.1106 of 2021 in CRL RC(MD)No.90 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 passed on dated 29/10/2020 made in C.A.No.8 of 2020 on the file of the Principal District and Sessions Court, Ramanthapuram Confirming the judgment dated 13/02/2020 made in C.C.No.126 of 2016 on the file of the District Munsif cum Judicial Magistrate Court, Thiruvadanai and enlarge the petitioner on bail pending disposal of the above Criminal Revision.

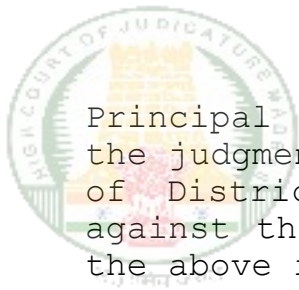
PRAYER IN CRL MP(MD)No.1107 of 2021 in CRL RC(MD)No.90 of 2021:

To Exempt the personal appearance of the petitioner from surrender in furtherance of the judgment and sentence imposed in C.A.No.08 of 2020 dated 29/10/2020 on the file of the Principal District and Sessions Court, Ramanathapuram Confirming the judgment dated 13/02/2020 made in C.C.No.126 of 2016 on the file of the District Munsif cum Judicial Magistrate Court, Thiruvadanai pending disposal of the above Criminal Revision.

PRAYER IN CRL RC(MD)No.90 of 2021:

Pleased to call for the records relating to the judgment of conviction dated 29.10.2020 made in C.A.No.08 of 2020 on the file of

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



Principal District and Sessions Court, Ramanathapuram conforming the judgment dated 13.02.2020 made in C.C.No.126 of 2016 on the file of District Munsif cum Judicial Magistrate Court, Thiruvadanai against the petitioner and set aside the same as illegal and allow the above revision.

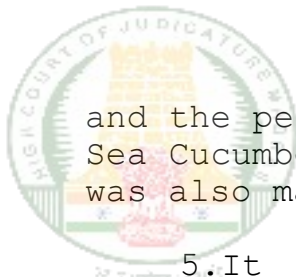
Order : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.R.GANDHI, Advocate for the petitioner in both petitions, and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent in both petitions, while admitting the Criminal Revision Petition, the court made the following order:-

These petitions have been filed (i) to suspend the sentence imposed by the Principal District and Sessions Judge, Ramanathapuram, in Criminal Appeal No.8 of 2020, dated 29.10.2020 confirming the judgment passed in C.C.No.126 of 2016, dated 13.02.2020, on the file of the District Munsif cum Judicial Magistrate, Thiruvadanai, till the disposal of the revision (ii) to exempt personal appearance of the petitioner from surrendering before the trial Court.

2.The case against the petitioner is that on 17.09.2019, at about 11.00 am, the petitioner and other accused were found with two gunny bags of sea cucumber, which is punishable under the Wild Life Protection Act. A case in Crime No.126 of 2016 was registered by the respondent police and the case was taken on file as C.C.No.126 of 2016 by the District Munsif cum Judicial Magistrate, Thiruvadanai. After enquiry, the petitioner was found guilty under Sections 9, 39(1)(a)(b), 39 (3), 50 r/w. Section 51(1) of Wild Life Protection Act and he was sentenced to undergo one year simple imprisonment. Against that conviction and sentence, the petitioner preferred an appeal in Crl.A.No. 8 of 2020, before the Principal District and Sessions Judge, Ramanathapuram. That Appeal was dismissed and the order of the lower Court was confirmed in the Appeal. Against the same, the petitioner preferred a Revision in Crl.R.C.(MD)No.90 of 2021. Along with the Revision, the petitioner filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that all the witnesses P.W.1 to P.W.5 were official witnesses. No independent witness was examined by the prosecution. P.W.2 has admitted that the place of occurrence is a busy area, but, even then, the prosecution has failed to examine independent witness. Only on the confession of A1, the petitioner herein / A2 was impleaded in the case. Property was not seized from the petitioner / A2 and that there are much more points for arguments in the Revision and prayed the sentence to be suspended.

4.On the side of the respondent, it is stated that A1 was found with two gunny bags of sea cucumber. Form - 95 was marked as Ex.P3



and the petitioner herein / A2 abscond from the scene of occurrence. Sea Cucumber is a Scheduled Creature. Confession of the co-accused was also marked and prayed the petition to be dismissed.

5.It is seen that there are some arguable points for consideration in the Revision. 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.

6.Accordingly, the substantive sentence of imprisonment against the petitioner alone is suspended and the petitioner is 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 District Munsif cum Judicial Magistrate, Thiruvadanai, 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) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the District Munsif cum Judicial Magistrate, Thiruvadanai;

(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 daily at 10.30 a.m., until further orders.

7.Accordingly, Cr1.M.P. (MD)No.1107 of 2021 is dismissed.

sd/-
19/02/2021

/ 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 DISTRICT AND SESSIONS JUDGE,
RAMANTHAPURAM,

2. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
THIRUVADANAI.

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

4. THE FOREST RANGER,
WILD LIFE RANGE,
RAMANTHAPURAM.

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

+1. C.C. to Mr. R. GANDHI. Advocate SR.No.6318{F}

ORDER
IN
CRL MP(MD) Nos.1106 and 1107
of 2021 in
CRL RC(MD) No.90 of 2021
Date :19/02/2021

LS
TK/VR/SAR.2/22.02.2021/4P/7C