



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.1179 of 2021
in
CRL A(MD)No.72 of 2021

BENSAM

...APPELLANT/SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
TIRUNELVELI MEDICAL COLLEGE HOSPITAL POLICE STATION,
TIRUNELVELI CITY, TIRUNELVELI.
CRIME NO.310/2013.

... 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 and conviction imposed by the Learned 1st Additional District and Sessions Judge, Tirunelveli in S.C No. 583 of 2015 dated 27.01.2021 and enlarge the Petitioner on bail pending disposal of the above Criminal Appeal.

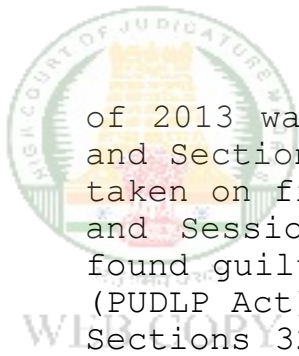
PRAYER IN CRL A(MD)No.72 of 2021:

Pleased to call for the records and set aside the sentence and conviction imposed by the learned Ist Additional District and Sessions Judge, Tirunelveli in S.C.No.583 of 2015 dated 27.01.2021.

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.KARUNANIDHI, Advocate for the petitioner 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 learned I Additional District and Sessions Judge, Tirunelveli in S.C.No.583 of 2015 dated 27.01.2021, till the disposal of the appeal.

2.The case against the petitioner is that on 24.09.2013, at about 11.30 p.m., the petitioner abused the witnesses, who are doctors giving treatment to the patients, in filthy language and disturbing them from discharging their duty and attacked them with iron glucose stand and caused them injuries. A case in Crime No.310



of 2013 was registered under Sections 294(b), 324, 332, 307 of IPC and Section 3 of TNMSP MSI (PUDLP Act) (48 of 2008) and the same was taken on file as S.C.No.583 of 2015 before the I Additional District and Sessions Judge, Tirunelveli. After trial, the petitioner was found guilty under Section 294(b) of IPC and Section 3 of TNMSP MSI (PUDLP Act) (48 of 2008) and he was acquitted from the charges under Sections 324, 332 and 307 of IPC by the learned Sessions Judge. The petitioner was sentenced to undergo three months simple imprisonment under Section 294(b) of IPC and he was sentenced to undergo three years simple imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo 15 days simple imprisonment under Section 3 of TNMSP MSI (PUDLP Act) (48 of 2008). Against the conviction and sentence imposed by the trial Court, the petitioner has preferred an appeal in Crl.A.(MD)No.72 of 2021. Along with the appeal, he has filed the present application for suspension of sentence pending disposal of the said appeal.

3.On the side of the petitioner, it is stated that the petitioner was brought to the hospital for treatment. At that time, he was taking treatment for some psychological problem - Bipolar Affective Disorder. Now he is cured from the disease. The complaint itself is doubtful. In the evidence of P.W.1 was stated that the complaint was given before the police station but in the evidence of P.W.14 it is stated that the complaint was given at the hospital. In Ex.P12, it is stated that the complaint was given at the police station. There is contradiction regarding the complaint. P.W.13 has also deposed that he has given a complaint and that complaint was suppressed by the police and there are much more points for arguments in the appeal and prayed the sentence imposed upon the petitioner to be suspended.

4.On the side of the respondent, it is stated that the prosecution has examined 15 witnesses and marked 15 documents and three material objects. The petitioner was brought to the hospital for involvement in another offence. He attacked the doctor and caused damages to the hospital properties. The evidence of P.W.6 and P.W.7 who are the escort who accompanied the petitioner clearly deposed about the occurrence. The petitioner failed to prove that he was having the mental illness. The petitioner failed to rebut the presumption under Section 84 of IPC. The petitioner failed to prove the legal insanity. The hospital was a public place. P.W.1 was a public servant. The petitioner used abuse words in the public places and caused dishonor to P.W.1. The prosecution has proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5.The petitioner was having mental ailments and at the time of occurrence and he is normal now. The present petition was filed only in his individual capacity and not through next friend. The petitioner has filed a medical certificate stating that he is normal



6.It is seen that the petitioner was already granted suspension of sentence by the trial Court. The learned counsel for the petitioner has raised substantial points in the memorandum of revision, which require a detailed consideration by this Court. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner and 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, 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 learned Judicial Magistrate No.I, Tirunelveli.

(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 further orders.

sd/-
05/03/2021

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/ /2021

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

TO

1.THE Ist ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI.

2.THE JUDICIAL MAGISTRATE No.I, TIRUNELVELI.

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

4.THE INSPECTOR OF POLICE,
TIRUNELVELI MEDICAL COLLEGE HOSPITAL POLICE STATION,
TIRUNELVELI.

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



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

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ORDER
IN
CRL MP (MD) No.1179 of 2021
in
CRL A (MD) No.72 of 2021
Date : 05/03/2021

MRN
TK/PN/SAR.4/05.03.2021/4P/6C