



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

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

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PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) Nos.1386 and 1387 of 2021
in
CRL RC(MD)No.122 of 2021

MOHAMMED HUSSAIN

... PETITIONER/PETITIONER
IN BOTH THE PETITIONS

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
THONDI POLICE STATION,
THONDI,
RAMANATHAPURAM DISTRICT.

... RESPONDENT/RESPONDENT
IN BOTH THE PETITIONS

PRAYER IN CRL MP(MD)No.1386 of 2021 IN CRL RC(MD)No.122 of 2021:

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Enlarge the Petitioner on bail by Suspending the Sentence imposed upon the petitioner in C.C No. 43/2012 on the file of the Learned District Munsif Cum Judicial Magistrate Court, Thiruvadanai, Ramanathapuram District dated 18.11.2019, which had been confirmed in Crl.A.No.26 of 2019 on the file of the Learned Principal District and Sessions Court, Ramanathapuram dated 17.12.2020, pending disposal of the main Criminal Revision Petition.

PRAYER IN CRL MP(MD)No.1387 of 2021 IN CRL RC(MD)No.122 of 2021:

To Exempt the petitioner from Surrender pursuant to the confirmation of conviction and sentence in Crl. A No. 26/2019 on the file of the Principal District and Sessions Court, Ramanathapuram dated 17.12.2020 Pending disposal of the main Criminal Revision petition.

PRAYER IN CRL RC(MD)No.122 of 2021:

Pleased to call for the records and Set-Aside the Judgment dated 17.12.2020 passed in Crl.A.No.26 of 2019 on the file of the

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



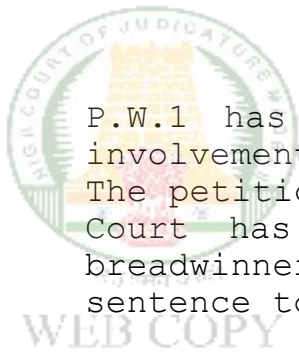
Learned Principal District and Sessions Court, Ramanathapuram, confirming the conviction and sentence imposed upon the petitioner in C.C.No.43 of 2012 on the file of Learned District Munsif Cum Judicial Magistrate, Thiruvadanai, Ramanathapuram District dated 18.11.2019 and Acquit the petitioner.

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.L.PRABHU, Advocate for the petitioner in both the petitions, and of Mr.KR.BHARATHI KANNAN, Government Advocate on behalf of the Respondent in both the 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.26 of 2019, dated 17.12.2020 confirming the judgment passed in C.C.No.43 of 2012, dated 18.11.2019 on the file of the District Munsif cum Judicial Magistrate, Thiruvadanai, Ramanathapuram District, till the disposal of the revision and (ii) to exempt the petitioner from surrendering before the trial Court.

2.The case against the petitioner is that the petitioner drove the vehicle bearing Registration No.TN -65-J-7356, a TATA ACE vehicle in a rash and negligent manner and he capsized the vehicle, thereby, causing the death of two persons and caused grievous injuries to seven persons and simple injuries to 18 persons, who travelled in that vehicle. A case in Crime No.97 of 2020 was registered by the respondent and the same was taken on file as C.C.No.43 of 2012. The District Munsif cum Judicial Magistrate, Thiruvadanai, Ramanathapuram District, found the petitioner guilty under Section 279, 337 (18 counts), 338 (7 counts) and 304 (A) (2 counts) I.P.C. and convicted the petitioner and sentenced him to undergo three months simple imprisonment for the offence under Section 279 I.P.C. and sentenced him to undergo one month simple imprisonment for each counts under Section 337 (18 counts) I.P.C. and sentenced him to undergo two months simple imprisonment for each count under Section 338 (7 counts) I.P.C. and sentenced him to undergo two years simple imprisonment for each counts under Section 304(A) (2 counts) I.P.C. Against the said conviction and sentence the petitioner filed an appeal in C.A.No.26 of 2019 on the file of the Principal District and Sessions Judge, Ramanathapuram. That appeal was dismissed by the Principal District and Sessions Judge. Against the same, the petitioner preferred this revision in Crl.R.C. (MD)No.122 of 2021. Along with the revision, the petitioner 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.

3. On the side of the petitioner, it is stated that the victim is not clear as to the mode of accident.



P.W.1 has deposed that he is not aware of the accident. The involvement of the vehicle was not clearly stated in the evidence. The petitioner was enjoying bail throughout the trial. The appellate Court has suspended the sentence. The petitioner is the only breadwinner of the family, having two children and prayed the sentence to be suspended till the disposal of the criminal revision.

4. On the side of the respondent, it is stated that two persons died in the accident and 25 persons were injured in the accident. Post Mortem report of the victims were marked as Ex.P6 and Ex.P8. Wound Certificates of the victims were marked as Ex.P11 to Ex.P35. The prosecution has examined 36 witnesses [P.W.1 to P.W.36] and marked 37 documents [Ex.P1 to Ex.P37] and the prosecution has proved the case beyond all reasonable doubts. If the petition is allowed, there is a chance for the petitioner to escape from the clutches of law and prayed the petition to be dismissed.

5. It is seen that there are some arguable points for consideration in the main revision. There is no likelihood of the revision to be taken up for final hearing in the near future. The petitioner was enjoying bail throughout the trial. In the above circumstances, this Court is inclined to suspend the sentence.

7. Accordingly, CrI.M.P.(MD)No.1386 of 2021 is allowed and 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 not exempted from surrendering before the trial Court and the petitioner is directed to surrender before the District Munsif cum Judicial Magistrate, Thiruvadanai, Ramanathapuram District, 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, for a like sum to the satisfaction of the District Munsif cum Judicial Magistrate, Thiruvadanai, Ramanathapuram District;

(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.



8. Accordingly, Crl.M.P. (MD) No.1387 of 2021 is dismissed.

sd/-
26/02/2021

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/ /2021

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

TO

1. THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
RAMANATHAPURAM.
 2. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
THIRUVADANAI, RAMANATHAPURAM DISTRICT.
 3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
 4. THE INSPECTOR OF POLICE,
THONDI POLICE STATION, THONDI,
RAMANATHAPURAM DISTRICT.
 5. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to Mr.L.PRABHU Advocate SR.No.1558

ORDER
IN
CRL MP(MD) Nos.1386 and
1387 of 2021 in
CRL RC(MD) No.122 of 2021
Date : 26/02/2021

LS
TK/VR/SAR.3/26.02.2021/4P/7C