



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

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

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) Nos.1539 and 1540 of 2021
in
CRL RC(MD)No.134 of 2021

ITHAYATHULLAH

... PETITIONER/APPELLANT/
SOLE ACCUSED
IN BOTH PETITIONS

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
S.P.PATTINAM POLICE STATION,
RAMANATHAPURAM DISTRICT.
CRIME NO.71 OF 2009.

... RESPONDENT/RESPONDENT/
COMPLAINANT
IN BOTH PETITIONS

PRAYER IN CRL MP(MD)No.1539 of 2021 IN CRL RC(MD)No.134 of 2021:

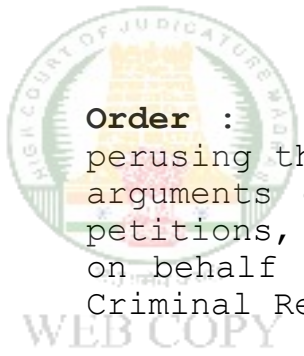
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed upon the petitioner in C.A.No.05/2020 dated 12.6.2020 on the file of Principal District Court, Ramanathapuram which is confirmed in the judgment passed in C.C.No.19 of 2012 dated 31.12.2019 on the file of the Learned District Munsif cum Judicial Magistrate Court, Thiruvadanai and enlarge the petitioner on bail pending disposal of above Criminal Revision.

PRAYER IN CRL MP(MD)No.1540 of 2021 IN CRL RC(MD)No.134 of 2021:

To grant Exemption to the Petitioner to surrender in C.A.No.05 of 2020 dated 12.6.2020 on the file of Principal District Court, Ramanathapuram which is confirmed in the judgment passed in C.C.No.19/2012 dated 31.12.2019 on the file of the Learned District Munsif cum Judicial Magistrate Court, Thiruvadanai pending disposal of above Criminal Revision.

PRAYER IN CRL RC(MD)No.134 of 2021:

Pleased to call for records in C.A.No.05/2020 dated 12.06.2020 on the file of Principal District Court, Ramanathapuram which is confirmed in the judgment passed in C.C.No.19/2012 dated 31.12.2019 on the file of the Learned District Munsif cum Judicial Magistrate, Thiruvadanai set aside the same and allow this Revision.



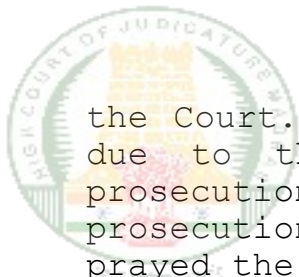
Order : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.C.SUSI KUMAR, Advocate for the petitioner in both petitions, and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent in both petitions,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

These petitions have been filed (i) to suspend the execution of sentence by granting bail in C.A.No.5 of 2020, dated 12.06.2020 on the file of learned Principal District Judge, Ramanathapuram, confirming the conviction and sentence of the learned District Munsif cum Judicial Magistrate, Thiruvadanai in C.C.No.19 of 2012, dated 31.12.2019 and (ii) to exempt the petitioner from surrendering before the lower Court.

2.The case against the petitioner is that he drove a Tata Tavera car in a drunken mood in a rash and negligent manner and hit against the milestone and caused the death of two children and caused greivous injuries to four persons and simple injuries to two persons. A case was registered in Crime No.71 of 2009 and the same was taken on file as C.C.No.19 of 2012 on the file of the learned District Munsif cum Judicial Magistrate, Thiruvadanai. After trial, the learned Judicial Magistrate found the petitioner guilty under Section 279, 337 (2 counts), 338 (4 counts) and 304(A) (2 counts) of IPC. He was sentenced to undergo three months simple imprisonment under Section 279 of IPC. He was sentenced to undergo one month simple imprisonment for each count under Section 337(2 counts) of IPC. He was sentenced to undergo two months simple imprisonment for each count under Section 338 (4 counts) of IPC. He was sentenced to undergo two years rigorous imprisonment for each count under Section 304(A) (2 counts) of IPC. Against the conviction and sentence imposed by the trial Court, the petitioner preferred an appeal in C.A.No.5 of 2020 before the Principal Sessions Judge, Ramanathapuram. The appeal was dismissed by the learned Principal Sessions Judge. Against which, the petitioner preferred a Criminal Revision Case in Crl.R.C.(MD)No.134 of 2021. Along with the revision, the petitioner filed these applications (i) for suspension of sentence (ii) for exemption of surrendering before the trial Court.

3.On the side of the petitioner, it is stated that the idenpendent witness P.W.7 turned hostile. P.W.4, P.W.5, P.W.7, P.W.8 and P.W.9 were parents of the victims. There was no evidence for rash and negiglent driving of the petitioner. There was no evidence as to the drunkenness of the petitioner. A cow suddenly crossed the road, due to which the accident occured. There are much more points for arguments in the revision and prayed the sentenced imposed upon the petitioner is to be suspended.

4.On the side of the respondent, it is stated that the present revision was filed against the concurrent judgment of the Courts below. The petitioner cannot claim exemption from appearing before



the Court. The offence is serious in nature. The two children died due to the accident and six more persons got injuries. The prosecution has examined 15 witnesses and marked 16 documents. The prosecution has proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

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5.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 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.

6.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 not exempted from surrendering before the trial Court and the petitioner is directed to surrender before the 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 learned 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 their valid identity card 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 further orders.

7.Accordingly, Crl.M.P.(MD)No.1540 of 2021 is dismissed.

sd/-
12/03/2021

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



TO

1. THE PRINCIPAL DISTRICT JUDGE,
RAMANATHAPURAM.

2. THE JUDICIAL MAGISTRATE,
THIRUVADANAI.

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

4. THE INSPECTOR OF POLICE
S.P. PATTINAM POLICE STATION,
RAMANATHAPURAM DISTRICT.

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

ORDER
IN
CRL MP(MD) Nos.1539 and
1540 of 2021 in
CRL RC(MD) No.134 of 2021
Date :12/03/2021

MRN

TK/PN/SAR.2/15.03.2021/4P/6C