



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

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

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.2608 of 2021
in
Crl.R.C.(MD)No.260 of 2021

NEPOLIAN BRITTO

... PETITIONER/ PETITIONER

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
SEMPATTI POLICE STATION,
DINDIGUL DISTRICT.

... RESPONDENT/ RESPONDENT

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 of imprisonment passed by the Learned Additional District and Sessions Judge, Dindigul pertaining to its judgment dated 11.12.2020 in Crl.A.No.13 of 2020 confirming the conviction and sentence imposed by the Chief Judicial Magistrate, Dindigul in its judgment dated 24.01.2020 in C.C.No.6 of 2018 pending disposal of this Criminal Revision.

Prayer in Crl.A.(MD)No.260 of 2021:

To call for the records of learned Additional District and Sessions Judge, Dindigul pertaining to its judgment dated 11.12.2020 in Crl.A.No.13 of 2020 confirming the conviction and sentence imposed by the Chief Judicial Magistrate, Dindigul in its judgment dated 24.01.2020 in C.C.No.6 of 2018 and set aside the judgments of Court below acquit the petitioner.

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.A.ARUL JENIFER, Advocate for the petitioner and of Mrs.S.BHARATHI, Government Advocate for the Respondent, While admitting the Criminal Revision, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Additional District and Sessions Judge, Dindigul, in Crl.A.No.13 of 2020 dated 11.12.2020 till the disposal of the revision.



2.The case against the petitioner is that on 05.01.2014, he drove the vehicle in a rash and negligent manner and dashed against one Murugesan and caused his death. A case was registered against the petitioner in Crime No.4 of 2014 and the same was taken on file as C.C.No.599 of 2014 on the file of the learned Judicial Magistrate No.II, Dindigul. Later the case was transferred to the learned Chief Judicial Magistrate, Dindigul and renumbered as C.C.No.6 of 2018. The learned Judge found the petitioner guilty under Sections 279, 337 and 304(A) of IPC. He was sentenced to undergo six months simple imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default, to undergo a further period of one month simple imprisonment under Section 279 of IPC and he was sentenced to undergo six months simple imprisonment and to pay a fine of Rs.500/- (Rupees Five Hundred only), in default to undergo one month simple imprisonment under Section 337 of IPC and he was sentenced to undergo two years simple imprisonment and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) in default, to undergo three months simple imprisonment under Section 304(A) of IPC. Against the said conviction and sentence imposed upon the petitioner, the petitioner has filed an appeal in C.A.No.13 of 2020 before the learned Additional District and Sessions Judge, Dindigul. The appeal was dismissed by the learned Judge. Aggrieved by which, the petitioner has preferred a revision before this Court in Crl.R.C. (MD)No.260 of 2021. Along with the revision, he has filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that there is contradiction in the evidence of P.W.2 and others. There is no possibility for P.W.2 to have seen the occurrence. There is contradiction regarding the place of occurrence. The photograph taken by P.W.1 was not marked and there are much more points for consideration 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 petitioner is absconding and NBW is pending from 11.12.2020. The prosecution has examined 14 witnesses and marked 9 documents and proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5.It is seen that there are substantial points in the memorandum of revision, which require a detailed consideration by this Court. The Criminal Revision Case is not likely to be taken up for final hearing in the near future. Hence, 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 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 Chief Judicial Magistrate, Dindigul.

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Chief Judicial Magistrate, Dindigul, may obtain a copy of their valid identity card to ensure their identity.

(iii) the petitioner shall appear before the Trial Court daily at 10.30 a.m., until further orders.

(iv) if the aforesaid conditions are violated, this order automatically stands cancelled.

sd/-
26/03/2021

/ 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 ADDITIONAL DISTRICT AND SESSIONS JUDGE,
DINDIGUL.
- 2 THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL.
- 3 THE INSPECTOR OF POLICE
SEMPATTI POLICE STATION, DINDIGUL DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL MP(MD) No.2608 of 2021
in Crl.R.C.(MD)No.260 of 2021
Date :26/03/2021

Mrn
MS/VR/SAR-1/29.03.2021/3P.5C