



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

Tuesday, the Second day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.1758 of 2021
in
Crl.R.C. (MD) No.162 of 2021

KADHER @ MOHIDEEN ABDUL KADHER

... PETITIONER/ PETITIONER

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
ARUMUGANERI POLICE STATION,
THOOTHUKUDI DISTRICT.
CRIME NO.210/2017

... RESPONDENT/ RESPONDENT

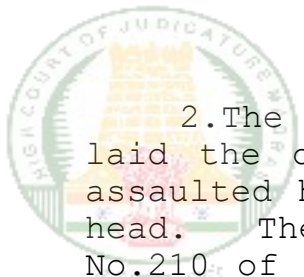
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to grant an order of suspension of the sentence of the Judgment dated 27.11.2020 made in C.A No.51 of 2019 on the file of the Principal Sessions Judge, Thoothukudi, Confirming the judgment dated 02.12.2019 made in C.C.No.271 of 2017 on the file of the Judicial Magistrate, Tiruchendur pending disposal of the above Revision Petition.

PRAYER IN Crl.R.C. (MD) No.162 of 2021:

To call for the records and set aside the judgemnt dated 27.11.2020 made in C.A.No.51 of 2019 on the file of the Principal Sessions Judge, Thoothukudi, Confirming the judgment dated 02.12.2019 made in C.C.No.271 of 2017 on the file of the Judicial Magistrate, Tiruchendur.

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.V.NAGARAJAN, Advocate for the petitioner and of Mrs.S.BHARATHI, Government Advocate on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Principal Sessions Judge, Thoothukudi in Crl.A.No.51 of 2019 confirming the judgment dated 02.12.2019 in CC.No.271 of 2017 on the file of the learned Judicial Magistrate, Tiruchendur, till the disposal of the revision case.



2.The case against the petitioner is that the petitioner way laid the defacto complainant and scolded him in filthy language, assaulted him with wooden log and caused him grevous injury on her head. The case was registered against the petitioner in Crime No.210 of 2017 before the respondent police. Later, the case was taken on file as CC.No.271 of 2017. The learned Judicial Magistrate, Tiruchendur found the petitioner guilty under Section 341 of IPC and imposed a fine of Rs.500/- and found the petitioner guilty under Section 325 of IPC and sentenced him to undergo one year Simple Imprisonment and to pay a fine of Rs.5,000/-, in default to undergo a further period of three months Simple Imprisonment. The petitioner was acquitted of charges under Sections 294(b) and 506(ii) IPC. Against the conviction and sentence, the petitioner filed an appeal before the Principal Sessions Judge, Thoothukudi in Crl.A.No.51 of 2019. The said appeal was dismissed by the Principal Sessions Judge, Thoothukudi. Aggrieved over the same, the petitioner preferred this revision in Cr.R.C.No.162 of 2021. Along with revision, the petitioner filed this petition for suspension of sentence.

3.On the side of the petitioner it is stated that, there is a 4ft lane in between the house of the petitioner and the house of the defacto complainant. That lane was used only by the women and children in that area. The defacto complainant drove the bike in the lane of the petitioner and the same was questioned by him. The defacto complainant at the time of riding in the lane hit on the wall of the building and he sustained injuries. All the witnesses are close relative of defacto complainant. P.W.2 is the father of the complainant. P.W.3 is the sister of the mother of the defacto complainant. P.W.4 is the brother of the mother of the defacto complainant. P.W.5 is the brother of the father of the defacto complainant. No individual witness was examined by the prosecution. There is a contradiction regarding the vehicle used by the defacto complainant for transporting to the hospital. 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, the evidence of the Doctors (D.W.8 and E.W.9) are very clear regarding the grevous head injuries sustained by the defacto complainant. The evidence of P.W.1 to P.W.3 clearly proved the case of the prosecution. The discrepancies in the cross-examination was clearly discussed by the trial Court. Due to the long delay in the cross-examination, there is some small discrepancy in the evidence of P.W.1 to P.W.3. It is ignorable. The prosecution has examined 11 witnesses and marked 10 documents and one M.O and prove the case beyond all reasonable doubt and prayed the petition to be dismissed.

5.It is seen that there are some arguable points for consideration in the criminal revision case. There is no likelihood of the revision to be taken up for final hearing in the near of



6.Considering the fact that the petitioner was enjoying the bail throughout the trial and the First Appeal, this Court is inclined to suspend the sentence on the following grounds:-

7.Accordingly, Crl.M.P(MD).No.1758 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 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, Tiruchendur.

(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 the disposal of the revision case or until further orders.

sd/-
02/03/2021

/ TRUE COPY /

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

TO

1 THE PRINCIPAL SESSIONS JUDGE, THOOTHUKUDI.

2 THE JUDICIAL MAGISTRATE, TIRUCHENDUR.

3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.

4 THE INSPECTOR OF POLICE,
ARUMUGANERI POLICE STATION, THOOTHUKUDI DISTRICT.

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

+1 CC to M/s.V.NAGARAJAN, Advocate (SR-1655[I] dated 02/03/2021)
ORDER IN
CRL MP(MD) No.1758 of 2021 in
Crl.R.C.(MD) No.162 of 2021
Date :02/03/2021

RMK

<https://hdservices.courts.gov.in/Services/Download/DownloadDocument.aspx?DocId=6503.2021/3P.7C>