



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATE : 21.01.2021
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

CrI. R.C.(MD)No.307 of 2019

WEB COPY

B.Kavery Manian .. Petitioner /Appellant/Accused No.1
(Now confining at Palayamkottai Central Prison)

Vs.

State Through the Inspector of Police,
Kovilpatti East Police Station,
Tuticorin District.

.. Respondent/Complainant

Prayer :This Criminal Revision Case is filed under Sections 397 r/w 401 of Cr.P.C., to call for the records connected with the order dated 16.04.2019 in Cr.M.P.No.570 of 2019 in C.A.No.7 of 2019 on the file of the Principal Sessions Judge, Thoothukudi and set aside the same, consequently pleased to suspend the sentence imposed against the petitioner in S.C.No.180 of 2014 on the file of the Sub Judge, Kovilpatti, dated 18.01.2019 and release the petitioner on bail.

For Petitioner : Mr.R.Alagumani

For Respondent : Mr.S.Chandrasekar,
Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed to set aside the order passed by the Principal Sessions Judge, Thoothukudi, in Cr.M.P.No.570 of 2019 in C.A.No.7 of 2019 and consequently, to suspend the sentence imposed against the petitioner in S.C.No.180 of 2014 on the file of the Sub Judge, Kovilpatti, dated 18.01.2019 and release the petitioner on bail.

2.A case in Crime No.33 of 2013 was registered by the respondent police against the petitioner and the case was taken on file as S.C.No.180 of 2014 before the learned Sub Judge, Kovilpatti. The trial Court found the petitioner guilty for the offence under Section 392 of IPC and sentenced him to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.1000/- in default to undergo a further period of one month simple imprisonment. Against the conviction and sentence, the petitioner preferred a appeal in C.A.No.7 of 2019 before the learned District and Sessions Judge, Tuticorin. Along with the appeal, the petitioner preferred a petition for suspension of sentence in Cr.M.P.No.570 of 2019 and that petition was dismissed by the Sessions Court. Against the dismissal of the petition, the



petitioner preferred this revision.

3. On the side of the petitioner, it is stated that originally, the case was registered against three persons and A-2 and A-3 were already acquitted by the Trial Court and the charge against the petitioner is under Sections 397 and 392 of IPC. It is stated that the petitioner is in custody for 2 ½ years and almost undergone 'half' of the period of conviction. Throughout the trial, the petitioner was on bail and there is possibility for the petitioner to get a modification order in the appeal and prayed the sentence to be suspended.

4. On the side of the respondent, it is stated that the petitioner is having 16 previous cases, which are similar in nature. A-2 and A-3 were acquitted. Since, no identification parade was conducted by the prosecution. The name of the first accused was mentioned in the First Information Report. There is no doubt regarding the identity of the petitioner. The prosecution has examined 12 witnesses and marked 10 documents and marked 9 material objects. The case was proved by the prosecution beyond all reasonable doubts. The trial Court rightly convicted the petitioner and prayed the petition to be dismissed.

5. On the side of the petitioner, it is further stated that though a list of previous cases were mentioned in the counter, the petitioner was already acquitted in six cases and in one another case, the petitioner was discharged from the charges and the other cases are pending trial.

6. It is stated that there is possibility for the petitioner to get atleast a modification of sentence in the appeal. The appeal is still pending before the Appellate Court. It is seen that the petitioner has undergone almost half of the period of sentence.

7. In view of the above, this Court is inclined to allow suspension of sentence to the petitioner 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 Assistant Sessions Judge, Kovilpatti.

(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 on every Wednesday at 10.30 a.m,*** until further orders.

8. Accordingly, the Criminal Revision is allowed and the order passed in Cr.M.P.No.570 of 2019 in C.A.No.7 of 2019 before the learned Principal Sessions Judge, Thoothukudi, is set aside.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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

The Inspector of Police,
Kovilpatti East Police Station,
Tuticorin District.

Copy to:

- 1.The Principal Sessions Judge, Thoothukudi.
- 2.The Assistant Sessions Judge/Subordinate Judge, Kovilpatti.
- 3.The Superintendent,
Central Prison,
Palayamkottai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1cc to Mr.R.ALAGUMANI ,Advocate, SR No.916372

CrI.R.C. (MD) No.307 of 2019
21.01.2021

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