



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

Thursday, the Seventh day of January Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.4654 of 2020

IN

CRL RC(MD) No.517 of 2020

MUNIYANDI

... PETITIONER/PETITIONER

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
PAMBAN POLICE STATION,
RAMANATHAPURAM DISTRICT.
CRIME NO.70 OF 2013

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order of suspend the sentence to suspend the sentence imposed on the petitioner vide judgment dated 15.06.2020 made in C.A.No.29 of 2019 on the file of the learned Principal District and Sessions Court, Ramanathapuram, confirming the conviction Judgment dated 10.12.2019 made in S.C.No.63 of 2015 on the file of the Learned Assistant Sessions Court, Ramanathapuram, pending disposal of the above Criminal Revision Case.

Prayer in CRL RC(MD) No.517 of 2020:

To set aside the judgment dated 15.06.2020 made in C.A.No.29 of 2019 on the file of the learned Principal District and Sessions Court, Ramanathapuram, confirming the conviction Judgment dated 10.12.2019 made in S.C.No.63 of 2015 on the file of the Learned Assistant Sessions Court, Ramanathapuram.

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.M.S.JEYAKARTHIK, 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 sentenced imposed by the learned Principal District and Session Judge, Ramanathapuram in C.A.No.29 of 2019 dated 15.06.2020, till the disposal of the revision.



2.The allegation against the petitioner is that the petitioner trespassed into the house of the defacto complainant and assaulted him with grievous weapon and caused injuries. A case in Crime No.70 of 2013 was registered against the petitioner under Sections 450, 326 and 324 of IPC and the same was taken up on file as S.C.No.63 of 2015. The learned Assistant Sessions Judge, Ramanathapuram found the petitioner guilty under Sections 450, 326 and 324 of IPC and sentenced him to undergo three months rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) in default to undergo one month simple imprisonment under Section 450 of IPC and sentenced the petitioner to undergo two years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo three months simple imprisonment under Section 326 of IPC and sentenced the petitioner to undergo three months rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) in default to undergo one month simple imprisonment under Section 324 of IPC. Against the conviction and sentence, the petitioner filed an appeal in C.A.No.29 of 2019 and the appeal was dismissed by the learned Principal Sessions Judge, Ramanathapuram. Aggrieved by which, the petitioner has preferred a revision in Crl.R.C.(MD)No.517 of 2020. Along with the revision, he has filed the present application for suspension of sentence pending disposal of the said revision.

3.On the side of the petitioner, it is stated that P.W.1 is the younger sister of the petitioner. P.W.2 is the husband of P.W.1. P.W.3 and P.W.4 are the sons of P.W.1 and P.W.2. Except P.W.1 to P.W.4, no other witnesses supported the case of prosecution. The seizure mahazer and observation mahazer witnesses turned hostile. No independent witness was examined by the prosecution. There are material contradictions between the evidence of P.W.1 and P.W.2 to P.W.4. The earlier complaint mention by P.W.1 in her evidence was suppressed by the police. The date of occurrence is 28.09.2013 but the complaint was lodged only on 29.09.2013. The FIR reached the Court on 01.10.2013. The delay was not explained by the prosecution. The victims are said to have taken treatment in Ramanathapuram Government Hospital, Madurai Government Hospital and then in a private hospital. But the accident register copies were not produced by the prosecution with regard to treatment given in all the government hospitals. Only due to land dispute, false case was foisted by the complainant and there are much more points for arguments and prayed the sentence imposed upon the petitioner to be suspended.

4.On the side of the respondent, it is stated that the prosecution has examined 13 witnesses and marked 11 documents and one material object. The evidence of doctor supported the case of prosecution. The accident register of P.W.1 was marked as Ex.P5. The wound certificate was marked as Ex.P6 and weapons are seized and



marked as Ex.P10. The case was proved by the prosecution beyond all reasonable doubts. The trial Court has rightly convicted the petitioner and prayed to dismiss the petition.

5.It is seen that the petitioner has not surrendered before the trial Court before filing the revision but subsequent to the filing of this revision, the petitioner was remanded on 28.12.2020 and the petitioner is in custody from 28.12.2020. Considering the fact that the petitioner has raised substantial points in the memorandum of revision, which require a detailed consideration by this Court and considering that an opportunity for the petitioner is to be given in the interest of justice, 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 Judicial Magistrate, Ramanathapuram.

(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 or until further orders.

sd/-
07/01/2021

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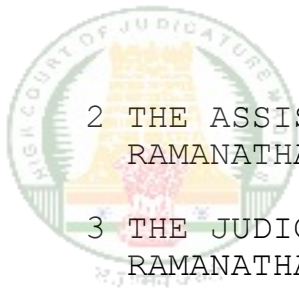
/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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 PRINCIPAL DISTRICT AND SESSIONS JUDGE,
RAMANATHAPURAM.

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



2 THE ASSISTANT SESSIONS JUDGE,
RAMANATHAPURAM.

3 THE JUDICIAL MAGISTRATE,
RAMANATHAPURAM.

4 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM.

5 THE INSPECTOR OF POLICE,
PAMBAN POLICE STATION,
RAMANATHAPURAM DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

ORDER
IN
CRL MP (MD) No.4654 of 2020
IN
CRL RC (MD) No.517 of 2020
Date :07/01/2021

MRN
JM/VR/SAR I/08.01.2021/4P/8C