



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

Thursday, the Nineteenth day of August Two Thousand and Twenty One
PRESENT

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The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.5501 of 2021

IN

CRL A(MD)No.176 of 2021

1 RAJESH KUMAR @ SURYA
2 ABDUL KARIM SHET

...PETITIONERS/APPELLANTS/
ACCUSED Nos.1 & 2

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
APPAN THIRUPATHI POLICE STATION,
MADURAI DISTRICT.
CRIME NO.57 OF 2016.

... RESPONDENT/RESPONDENT/COMPLAINANT

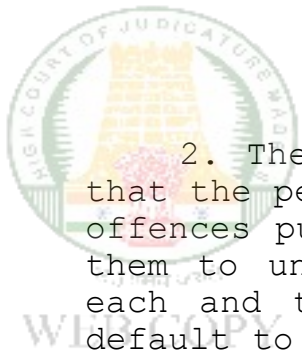
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Sentence and enlarge the petitioners on bail imposed on the appellants by the judgment dated 09.03.2021 made in S.C.No.473 of 2019 on the file of I Additional Assistant Sessions Court, Madurai.

PRAYER IN CRL A(MD)No.176 of 2021:

To call for the records relating to the judgment dated 09.03.2021 made in S.C.No.473 of 2019 on the file of I Additional Assistant Sessions Court, Madurai and set aside the conviction and sentence imposed against the Appellants/Accused No. 1 and 2 for the offences punishable under section 394 r/w 397 of IPC and sentenced to undergo 10 years R.I each and pay a fine amount of a sum of Rs.25000/- each in default to undergo 1 year S.I and allow the above appeal by acquitting the accused.

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.J.SULTHAN BASHA, Advocate for M/S.AJMAL ASSOCIATES for the petitioners and of Mr.RMS.SETHURAMAN, Counsel for State (crl.side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioners in S.C.No.473 of 2019, dated 09.03.2021 on the file of the I Additional Assistant Sessions Court, Madurai and enlarge the petitioners on bail.



2. The learned counsel appearing for the petitioners submitted that the petitioners have been convicted by the Trial Judge, for the offences punishable under Section 394 r/w 397 of IPC, and sentenced them to undergo rigorous imprisonment for a period of ten years each and to pay a fine amount of a sum of Rs.25,000/- each, in default to undergo simple imprisonment for a period of one year in S.C.No.473 of 2019 on the file of the learned I Additional Assistant Sessions Judge, Madurai.

3. It is submitted by the learned counsel for the petitioners that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

4. It is submitted by the learned counsel appearing for State Government (Crl.side) that there are enough materials available on record against the petitioners as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and he strongly opposed to grant suspension of sentence.

5. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

6. The learned counsel appearing for the petitioners pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this court is of the considered view that the petitioners herein is entitled to the relief of grant of suspension of sentence.

7. Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions.

(i) the petitioners are directed to be enlarged on bail on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.V, Madurai;

(ii) the petitioners are directed to deposit a sum of Rs.40,000/- (Rupees Forty Thousand only) to the credit of S.C.No.473 of 2019 on the file of the I Additional Assistant Sessions Court, Madurai within a period of two weeks from the date of

<https://hcservices.ecourts.gov.in/hcservices/> of a copy of this order;



(iii) and on further condition that the petitioners shall appear before the said Court daily at 10.30 a.m pending appeal.

sd/-
19/08/2021

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/ /2021

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

TO

1.THE I ADDITIONAL ASSISTANT SESSIONS JUDGE, MADURAI.

2.THE JUDICIAL MAGISTRATE NO.V
MADURAI.

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

4.THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

5.THE INSPECTOR OF POLICE
APPAN THIRUPATHI POLICE STATION,
MADURAI DISTRICT.

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

+1. C.C. to M/S.AJMAL ASSOCIATES Advocate SR.No.5564

ORDER

IN

CRL MP(MD) No.5501 of 2021
IN

CRL A(MD)No.176 of 2021

Date :19/08/2021

SA/JC/SAR.3/24.08.2021/3P/8C