



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

Wednesday, the Twenty Eighth day of April Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.6369 of 2020
IN CRL RC(MD) No.649 of 2020

BABU

... PETITIONER/ PETITIONER

Vs

STATE REP.BY
THE SUB-INSPECTOR OF POLICE
KALIYAKKAVILAI POLICE STATION,
KALIYAKKAVILAI,
KANNIYAKUMARI DISTRICT.
CRIME NO.357 OF 1984

... RESPONDENT/ RESPONDENT

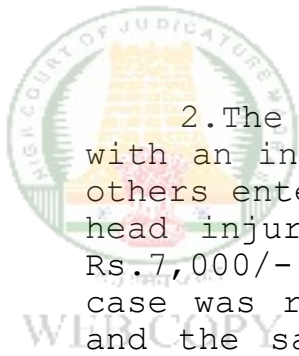
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed by the Learned Principal Sessions Court, Kanyakumari District at Nagercoil in C.A.NO.312 of 2005, dated 06/06/2018 confirming the Conviction and sentence passed by the Learned Assistant Sessions Court, Kuzhithurai, Kanniyakumari District in S.C.No.136 of 2001 dated 26.11.2004 pending disposal of the main Criminal Revision Petition and release the petitioner on bail.

PRAYER IN CRL RC(MD) No.649 of 2020:

To call for the entire records of the impugned order dated 06.06.2018 in C.A.No.312 of 2005 passed by the learned Principal Sessions Court, Kanniyakumari District at Nagercoil, confirming the order of conviction in S.C.No.136 of 2001 dated 26.11.2004 passed by the learned Assistant Sessions Court, Kuzhithurai, Kanniyakumari District and set aside the same by allowing the revision petition.

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.P.KRISHNASAMY, Advocate for the petitioner and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Sessions Judge, Kanyakumari Division, Nagercoil, in C.A.No.312 of 2005 dated 06.06.2018 till the disposal of the



2.The allegation against the petitioner is that on 24.09.1988, with an intention to murder the witness Kamalan, the petitioner and others entered into the house and attacked him with knife and caused head injury and they robbed cash of Rs.. and jewels worth about Rs.7,000/- and caused damage to the door and chairs in the house. A case was registered against the petitioner in Crime No.357 of 1984 and the same was taken on file as S.C.No.136 of 2001 before the learned Sessions Judge, Kuzhithurai, Kanyakumari District. The learned Judge found the petitioner guilty under Sections 392 r/w. 397 of IPC and sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.100/- in default to undergo three months rigorous imprisonment. Against the said conviction and sentence imposed upon the petitioner, the petitioner has filed an appeal before the learned Principal Sessions Judge, Kanyakumari Division, Nagercoil in C.A.No.312 of 2005. The learned Judge dismissed the appeal. Aggrieved by which, the petitioner has preferred a revision in Crl.R.C.(MD)No.649 of 2020. Along with the revision, he has filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that the allegation against the petitioner is that he committed dacoity but the alleged chain was snatched by the co accused not by the petitioner. P.W.2 and P.W.3 turned hostile. P.W.6 has deposed that he did not know the contents of the Mahazer. P.W.8 has deposed that he did not know who travelled in the car. The victim has not mentioned about the place of occurrence to the doctor. The chargesheet was filed by the Investigation Officer who registered the FIR. There are much more points for consideration in the revision 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 undergoing life imprisonment in a murder case in the Central Prison, Thiruvananthapuram. By this time, the period of conviction might have been completed. The prosecution has examined 15 witnesses and marked 7 documents and proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5.It is seen that the petitioner is in custody in a murder case undergoing life imprisonment. There is possibility for the petitioner to have complete the entire period of sentence imposed by this Court in this case. This Court has addressed the Superintendent of Prison, Central Prison, Thiruvanthapuram on 19.02.2021. but till today no reply was received from the Superintendent of Prison. There is no use in keeping this petition pending any further. 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



(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, Kuzhithurai, Kanniyakumari.

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Assistant Sessions Judge, Kuzhithurai, Kanniyakumari, may obtain a copy of their valid identity card to ensure their identity.

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

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

sd/-

28/04/2021

/ 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 PRINCIPAL SESSIONS JUDGE,
KANYAKUMARI DISTRICT AT NAGERCOIL

2 THE ASSISTANT SESSIONS JUDGE,
KUZHITHURAI, KANNIYAKUMARI DISTRICT.

3 THE SUB-INSPECTOR OF POLICE
KALIYAKKAVILAI POLICE STATION,
KALIYAKKAVILAI, KANNIYAKUMARI DISTRICT.

4 THE SUPERINTENDENT, CENTRAL PRISON,
PALAYAMKOTTAI.

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

ORDER IN

CRL MP(MD) No.6369 of 2020

IN CRL RC(MD) No.649 of 2020

Date : 28/04/2021

MRN

<https://hdcvce11.ecourts.gov.in/hdcvce11> 2021/3P.6C