



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

Friday, the Seventeenth day of September Two Thousand and Twenty One

WEB COPY

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.6178 of 2021

IN

CRL A(MD)No.357 of 2021

M.CHELLAIYA

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
MANOOR POLICE STATION,
TIRUNELVELI DISTRICT.

... 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 on the Petitioner/Appellant by Judgment and sentence dated 04.08.2021 passed in SC No.274 of 2017 on the file of the Hon`ble IV Additional Sessions Judge, Tirunelveli.

PRAYER IN CRL A(MD)No.357 of 2021:

To call for the records of the Judgment dated 04.08.2021 passed in SC.No.274 of 2017 on the file of the IV Additional Sessions Judge, Tirunelveli in Crime No.367 of 2013 dated 31.10.2013 on the file of the Respondent police and setaside the same.

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.I.ROBERT CHANDRAKUMAR, Advocate for the petitioner and of Mr.RMS.SETHURAMAN, Additional Public Prosecutor(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 petitioner in S.C.No.274 of 2017, dated 04.08.2021 by the learned IV Additional Sessions Judge, Tirunelveli.

2.The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the learned trial judge, for the alleged offence under Section 304(ii) IPC, and sentenced him to undergo simple imprisonment for a period of five years and to pay a fine of Rs.2,000/-, in default to undergo simple imprisonment for



a period of six months in S.C.No.274 of 2017 on the file of the learned IV Additional Sessions Judge, Tirunelveli.

3.It is submitted by the learned counsel appearing for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and he prayed for suspension of sentence.

4.It is submitted by the learned Additional Public Prosecutor that there are enough materials available on record against the petitioner 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 petitioner 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 petitioner 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 petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.V, Tirunelveli;

(ii)and on further condition that the petitioner shall appear before the Perunthurai Police Station, Erode District daily at 10.30 a.m. pending appeal.

sd/-

17/09/2021

/ 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 IV ADDITIONAL SESSIONS JUDGE,
TIRUNELVELI.
2. THE JUDICIAL MAGISTRATE NO.V
TIRUNELVELI.
3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
4. THE SUPERINTENDENT
CENTRAL PRISON, TIRUNELVELI.
5. THE INSPECTOR OF POLICE
MANOOR POLICE STATION,
TIRUNELVELI DISTRICT.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE INSPECTOR OF POLICE
PERUNTHURAI POLICE STATION,
ERODE DISTRICT.

+1. C.C. to Mr.I.ROBERT CHANDRAKUMAR, Advocate SR.No.6340

ORDER

IN

CRL MP(MD) No.6178 of 2021

IN

CRL A(MD)No.357 of 2021

Date :17/09/2021

SA/VR/SAR.2/20.09.2021/3P/9C