



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

Friday, the Twelfth day of November Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.7148 of 2021
in
Crl.R.C.(MD) No.389 of 2021

KUMARAKURUPPARAN

... PETITIONER/ PETITIONER

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
Q BRANCH CID,
PUDUKOTTAI.
CRIME NO.1/2008

... 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 in C.A.No.12 of 2018 dated 20/02/2020 on the file of the Principal District and Sessions Court, Pudukkottai confirming the judgment passed in C.C.No.164 of 2010 dated 21/02/2018 on the file of the Judicial Magistrate, Aranthangi, Pudukottai District, pending disposal of the above Criminal Revision Petition.

PRAYER IN Crl.R.C.(MD) No.389 of 2021:

To call for the records pertaining to the judgment dated 20.02.2020 passed in C.A.No.12 of 2018 on the file of the Principal District and Sessions Court, Pudukottai confirming the judgment dated 21.02.2018 in C.C.No.164 of 2010 on the file of the Judicial Magistrate, Aranthangi and set aside 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.R.SANKARASUBBU, Advocate for the petitioner and of Mr.S.RAVI, 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 Principal District and Sessions Court, Pudukkottai, in C.A.No.12 of 2018 dated 20.02.2020 by confirming the judgment passed by the Judicial Magistrate, Aranthangi, Pudukkottai District, in C.C.No.164 of 2010, dated 21.02.2018, till the disposal of the revision.

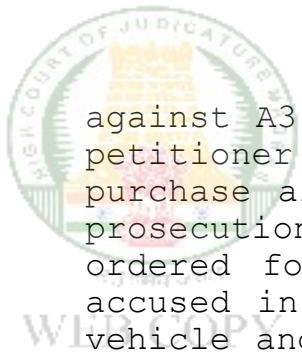


2. The case of the petitioner is that on 22.07.2008, a banned organization - LTTE functioning in Srilanka, wanted to purchase Engines in Tamilnadu. The petitioner and others conspired together and try to smuggle the Engines to Srilanka. A case in Crime No.1 of 2008 was registered against the petitioner and others and the case was taken up on file as C.C.No.164 of 2010. After trial, the Judicial Magistrate, Aranthangi, Pudukkottai District, found the petitioner and others guilty under Section 120-B of I.P.C and Section 13(2) of Unlawful Activities (Prevention) Act, 1967. The petitioner and others were convicted under Section 120-B of I.P.C and were sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) each, in default to undergo one month simple imprisonment and under Section 13(2) of Unlawful Activities (Prevention) Act, 1967, the petitioner and others were sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) each, in default to undergo one month simple imprisonment.

3.As against the said conviction and sentence, the petitioner and others preferred an appeal in C.A.No.12 of 2018 before the learned Principal District and Sessions Judge, Pudukkottai. On 20.02.2021, the first appellate Court has dismissed the appeal. Aggrieved by the order, the petitioner/ A1 has preferred a revision case in Crl.R.C.(MD)No.389 of 2021. Along with the revision, he has filed the present application for suspension of sentence, pending disposal of the said revision.

4.On the side of the petitioner, it is stated that the trial Court and the first appellate Court failed to appreciate the evidence in proper perspective. The dismissal of the appeal was not intimated to the petitioner either by the appellate Court or by the counsel. Only when the petitioner was taken into custody on 26.04.2021, the petitioner came to know about the dismissal of the appeal. The alleged engines were not crossed the seashore. Wife of the petitioner is taking treatment for brain tumor and she is counting her dates. Already this Court granted suspension of sentence to A3. There are much more points for consideration in the main revision and prayed the sentence to be suspended till the disposal of the revision.

5.On the side of the prosecution, it is stated that the prosecution has examined 19 witnesses and marked 42 documents and 15 material objects. The case against the some of the accused was split up by the Court. Even though the judgment was pronounced on 20.02.2020, the petitioner has not chosen himself to surrender before the Court. Only after 14 months, he was arrested by the police. The case was proved by the prosecution beyond all reasonable doubts. If the sentence is suspended, there is a chance for the petitioner to abscond again. The earlier petition filed by the petitioner in Crl.M.P.(MD)No.4038 of 2021 was dismissed on 26.05.2021. There is no change of circumstances. The case



against A3 is different from the case against the petitioner. The petitioner has purchased 5 Yamaha Engines and the receipts for the purchase are in the name of the petitioner and were marked by the prosecution through Ex.P23 to Ex.P25. It was the petitioner, who ordered for the Engines. The petitioner is the first and prime accused in the case. The case against A3 is that he diverted the vehicle and he is not the prime accused and prayed the petition to be dismissed.

6. On the side of the petitioner, it is stated that the petitioner is a Practicing Advocate in Chennai, there is no possibility for the petitioner to abscond. No offence is made out against the petitioner and there is no chance for the petitioner to meet all the other accused together and conspired for an offence. There is no LTTE Organization in existence now. The petitioner is in custody from 26.04.2021.

7. It is seen that the petitioner is in custody from 26.04.2021. There are some arguable points for consideration in the Revision. Considering the period of incarceration and considering the fact that the Criminal Revision Case is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

8. Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the Revision 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.25,000/- (Rupees twenty five thousand only) each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate, Aranthangi, Pudukkottai District,;

(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 any valid identity proof to ensure their identity ;

(iii) the petitioner shall appear before the Mint (H1) Police Station, Old Washermanpet, Chennai, **daily at 10.30 a.m.**, until further orders.

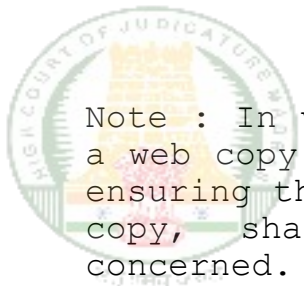
sd/-

12/11/2021

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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.

WEB COPY

- TO
- 1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
PUDUKKOTTAI.
 - 2 THE JUDICIAL MAGISTRATE,
ARANTHANGI, PUDUKKOTTAI DISTRICT.
 - 3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
PUDUKKOTTAI DISTRICT.
 - 4 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
 - 5 THE INSPECTOR OF POLICE
Q BRANCH CID, PUDUKOTTAI.
 - 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE INSPECTOR OF POLICE,
MINT (H1) POLICE STATION,
OLD WASHHERMANPET, CHENNAI.

ORDER

IN

CRL MP(MD) No.7148 of 2021 in
Crl.R.C.(MD) No.389 of 2021

Date :12/11/2021

LS

MS/PN/SAR-1/16.11.2021/4P.8C