



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

Friday, the Fifth day of February Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.7801 of 2020
IN
CRL A(MD) No.387 of 2020

SELVARAJ @ SELLA

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
CHINNAMANUR POLICE STATION,
THENI DISTRICT.
CRIME NO.207 OF 2016.

... 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 of Imprisonment imposed in S.C.No. 53 of 2017 on the file of the Learned Principal Sessions Judge, Theni, dated 04.12.2020, and enlarge the petitioner/Appellant on bail, pending disposal of the above Criminal Appeal.

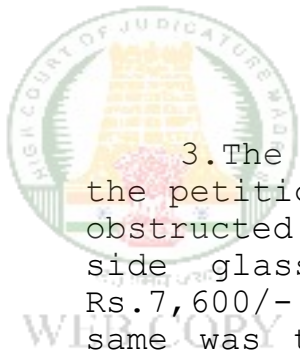
PRAYER IN CRL A(MD) No.387 of 2020:

Pleased to call for the records of the Court below and set aside the judgment and conviction dated 04.12.2020 made in S.C.No.53 of 2017 on the file of the Learned Principal Sessions Judge, Theni, and acquit the Appellant/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.S.SUNDARAPANDIAN, Advocate for the petitioner and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

2. This petition has been filed to suspend the sentence imposed by the Principal Sessions Judge, Theni, made in S.C.No.53 of 2017, dated 04.12.2020 and to enlarge the petitioner on bail pending the disposal of the appeal.



3.The allegation against the petitioner is that on 27.03.2016, the petitioner in a drunken mood quarrelled with P.W.1 and P.W.2 and obstructed them from doing their official duty and damaged the front side glass of the bus with stone and the damages value is Rs.7,600/-. A case was registered in Crime No.207 of 2016 and the same was taken on file as S.C.No.53 of 2017 on the file of the Principal Sessions Judge, Theni. After trial, the petitioner was found guilty under Sections 341, 353 of I.P.C. and was acquitted under Section 4(1)(J) of TNP Act, by the trial Court. The petitioner was convicted under Section 341 I.P.C and was sentenced to undergo one month simple imprisonment and the petitioner was convicted under Section 353 I.P.C. and was sentenced to undergo two years rigorous imprisonment and under Section 427 I.P.C. the petitioner was sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo a further period of six months simple imprisonment and the fine amount shall be paid as compensation under Section 357(1) Cr.P.C. to the Tamil Nadu State Transport Corporation, Bodinayakanur Branch and the petitioner was acquitted under Section 4(1)(J) of TNP Act by, its judgment, dated 04.12.2020. Against the conviction and sentence the petitioner preferred an appeal in Crl.A.(MD)No.387 of 2020. Along with the Appeal, the petitioner preferred this petition for suspension of sentence.

4.On the side of the petitioner, it is stated that the petitioner paid the fine amount and both the Conductor and the Driver of the bus were turned hostile. The offence alleged against the petitioner is pelting stone in an intoxication mood. The trial Court acquitted the petitioner under Section 4(1)(J) of TNP Act. The petitioner is in custody for the past two months and there are much more arguable points for consideration in the appeal and prayed the sentence to be suspended till the disposal of the appeal.

5. On the side of the respondent, it is stated that the offence against the petitioner is damaging public property. The prosecution has examined 7 witnesses (P.W.1 to P.W.7) and marked 7 documents (Ex.P1 to Ex.P7) and 1 Material Object (M.O.1). Damage Certificate was marked Ex.P5. Certificate of Drunkenness was marked as Ex.P6. Due to fear, P.W.1 and P.W.2 might have turned hostile and that this will not affect the case of the prosecution. The prosecution has proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

6.It is seen that the petitioner is in custody for the past two months and there are some arguable points for consideration in the main appeal. The Criminal Appeal is not likely to be taken up for final hearing in the near future and this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.



7. Accordingly, this petition is allowed and 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 shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Principal Sessions Judge, Theni;

(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 any valid identity proof 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 appeal.

sd/-
05/02/2021

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

TO

- 1.THE PRINCIPAL SESSIONS JUDGE, THENI.
- 2.THE INSPECTOR OF POLICE,
CHINNAMANUR POLICE STATION,
THENI DISTRICT.
- 3.THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.7801 of 2020
IN
CRL A(MD) No.387 of 2020
Date :05/02/2021

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TK/VR/SAR.4/08.02.2021/3P/5C

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