



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

Monday, the Eighth day of November Two Thousand and Twenty One
PRESENT

The Hon`ble Mrs.Justice R.THARANI

WEB COPY

CRL MP(MD) No.8750 of 2021

IN

CRL A(MD) No.441 of 2021

AYYAPPAN

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
KARAMBAKUDI POLICE STATION,
PUDUKOTTAI,
PUDUKKOTTAI DISTRICT.
CR.NO.214/2019

... 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 conviction imposed by the Learned Principal District and Sessions Court, Pudukkottai in S.C.No.21 of 2021 dated 04/10/2021 and enlarge the petitioner on bail pending disposal of the above said Criminal Appeal.

PRAYER IN CRL A(MD)No.441 of 2021:

To call for the records and set aside the sentence and conviction imposed by Learned Principal District & Sessions Court, Pudukkottai in S.C.No.21 of 2021 dated 04.10.2021.

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.G.KARUPPASAMY PANDIYAN, Advocate for the Appellant and of Mr.R.M.ANBUNITHI, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed on the petitioner in S.C.No.21 of 2021, dated 04.10.2021, on the file of the Principal District and Sessions Judge, Pudukkottai.

2.The allegation against the petitioner is that on 05.10.2019, at about 23.45 hours, when the Special Sub Inspector of Police along with a constable and a head Constable were all on patrol duty, the accused came in a two wheeler without number plate. When the same was enquired, the accused smoldered cigarette smoke on the face of P.W.1 and scolded the police in filthy language, slapped P.W.1 and attempted to kill him with a broken beer bottle. A case in Crime No.214 of 2019 was registered against the petitioner, under Sections 294(b), 332, 307 and 506(ii) I.P.C. and the same was taken on file as S.C.No.21 of 2021, on the file of the Principal District and



Sessions Judge, Pudukkottai. The petitioner was convicted and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo a further period of six months rigorous imprisonment, under Section 332 I.P.C.. The petitioner was sentenced to undergo seven years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo a further period of one year rigorous imprisonment, under Section 307 I.P.C and acquitted the petitioner under Sections 294(b) and 506(ii) I.P.C. Against the conviction and sentence, the petitioner preferred an Appeal in Crl.A.(MD)No.441 of 2021. Along with the appeal, the petitioner has filed the present petition for suspension of sentence.

3.On the side of the petitioner, it is stated that this is a false case lodged by the police officer. The occurrence is said to have taken place on 05.10.2019, at about 23.45 hours and the complaint was against an unknown person. But, the F.I.R was registered at 12.30 hours and the full name and address of the petitioner was mentioned in the F.I.R. P.W.1 gave a statement before the Doctor stating that he was attacked by three known persons, but, the charge sheet was laid only against one of the accused. The case against the accused was that he came in a two wheeler without a number plate. But, the Investigation Officer has admitted that number plate was in the vehicle. No independent witness was examined on the side of the prosecution. There was no injury inflicted on the body of the injured. No weapon was used. The petitioner was in custody for the past 34 days and prayed the sentence to be suspended.

4.On the side of the prosecution, it is stated that the victim is a police official. There is no motive for P.W.1 **against the petitioner. The judgment was pronounced only on 04.10.2021. Period of conviction is seven years and three years.** The accused was inside only for the past 34 days. The prosecution has examined 10 witnesses and marked 9 documents and 2 material objects and proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5. Considering the facts and circumstances of the case and considering the nature of offence and considering that the judgment is a recent one, this Court is not inclined to suspend the sentence, at this juncture. This petition is dismissed.

sd/-

08/11/2021

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/ /2021

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



TO

- 1 THE PRINCIPAL DISTRICT & SESSIONS JUDGE,
PUDUKKOTTAI.
- 2 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY.
- 3 THE INSPECTOR OF POLICE
KARAMBAKUDI POLICE STATION,
PUDUKOTTAI,
PUDUKKOTTAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S.R.KARUNANITHI, Advocate SR.No.7898

ORDER

IN

CRL MP (MD) No.8750 of 2021
IN

CRL A (MD) No.441 of 2021
Date :08/11/2021

SA/VR/SAR.1/25.11.2021/3P/6C