



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

Thursday, the Twenty Fifth day of November Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

Crl.M.P. (MD) No.10223 of 2021
in
Crl.R.C. (MD) No.867 of 2021

RAJAKANI

... PETITIONER/ APPELLANT / ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
PUTHUKOTTAI POLICE STATION,
CRIME NO.460/2009,
THOOTHUKUDI.

... RESPONDENT/ RESPONDENT / COMPLAINANT

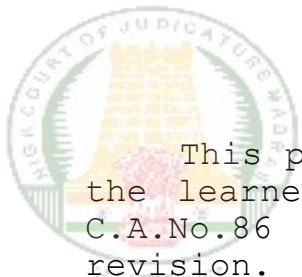
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence of imprisonment imposed in the judgement dated order dated 31.08.2020 made in C.A.No.86 of 2018 on the file of the Principal Sessions Judge, Thoothukudi confirming the conviction imposed in judgment dated 11.10.2018 made in C.C.No.70 of 2012 on the file of the Chief Judicial Magistrate, Thoothukudi.

Prayer in CRL RC(MD). 867/ 2021 :

To call for the records and set aside the conviction imposed in the judgment order dt 31.08.2020 made in Cr.A.No.86 of 2018 on the file of the Principal Sessions Judge Thoothukudi confirming the conviction imposed in judgment dt 11.10.2018 made in C.C.No.70 of 2012 on the file of the Chief Judicial Magistrate, Thoothukudi sentencing the accused to undergo sentencing the accused to pay fine sum of Rs 500/- in default to undergo 1 month simple imprisonment for offence under section 279 of I.P.C and to pay a fine sum of Rs 500/- in default to undergo 1 month simple imprisonment for offence under section 337(2) of I.P.C and to pay a fine sum of Rs 500/- in default to undergo 1 month simple imprisonment for offence under section 338 of I.P.C and the accused shall undergo 6 months period rigorous imprisonment for offence under section 304(A) of IPC by allowing this Criminal 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.R.THIRUMOORTHY, Advocate for the petitioner and of M/S.K.ASHA, Government Advocate on behalf of the Respondent, the

<https://hcservices.com.in/tce> Following order:-



This petition has been filed to suspend the sentence imposed by the learned Principal District and Sessions Judge, Thoothukudi in C.A.No.86 of 2020 dated 31.08.2020, till the disposal of the revision.

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2.The case against the petitioner is that on 13.11.2009 at about 02.15 a.m., when the complainant was driving a Etcher lorry bearing registration No.KL-25-A-6660 along with witness Nos.2 to 4 and with one Nousath from Thoothukudi to Palayamkottai, the accused drove a Tarass lorry bearing registration No.TN-69-E-6012 in a rash and negligent manner, came from the opposite direction hit against the Etcher lorry and caused injuries to three persons and death to Nousath. A case was filed against the petitioner in Crime No.460 of 2009 under Sections 279, 337, 338 and 309 of IPC. The chargesheet was filed and the same was taken on file as C.C.No.70 of 2012 on the file of the learned Chief Judicial Magistrate, Thoothukudi. After trial, the learned Chief Judicial Magistrate, Thoothukudi found the petitioner guilty and he convicted the petitioner and sentenced him to pay a fine of Rs.500/- (Rupees Five Hundred only) in default to undergo one month simple imprisonment for each of the offences under Sections 279, 337(2 counts) and 338 of IPC and sentenced him to undergo six months rigorous imprisonment and to pay a fine of Rs.500/- (Rupees Five Hundred only) in default to undergo one month simple imprisonment for the offence under Section 304(A) of IPC. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal in C.A.No.86 of 2018 before the learned Principal Sessions Judge, Thoothukudi. The learned Judge has confirmed the conviction and sentence imposed on the petitioner. Against which, the petitioner has filed a Criminal Revision in Crl.R.C.(MD)No.867 of 2021 and along with the revision, they filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that the petitioner is in custody from 11.10.2021 that is for the past 45 days. There are contradictions in the evidence of prosecution witness nos.5 to 8. The earlier complaint was suppressed by the prosecution. There are much more arguable points in the main revision case and prayed the sentence to be suspended till the disposal of the revision.

4.On the side of the prosecution, it is stated that the prosecution has examined 12 witnesses and marked 16 documents and proved the case beyond all reasonable doubts. Only on the basis of oral and documentary evidence, both the trial Court and the appellate Court have passed the concurrent judgments and prayed the petition to be dismissed.

5.It is seen that there are substantial points in the memorandum of revision, which require a detailed consideration by the Criminal Revision Case is not likely to be taken



up for final hearing in the near future. 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 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.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 learned Chief Judicial Magistrate, Thoothukudi;

(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 Trial Court on the first working day of every month until further orders ;

sd/-

25/11/2021

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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.

TO

1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, THOOTHUKUDI

2 THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI.

3 THE INSPECTOR OF POLICE

PUTHUKOTTAI POLICE STATION, THOOTHUKUDI.

4 THE SUPERINTENDENT,

CENTRAL PRISON, PALAYAMKOTTAI.

5 THE ADDITIONAL PUBLIC PROSECUTOR,

MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to MR.R.THIRUMOORTHY, Advocate SR.No.8523.

ORDER IN

Crl.M.P.(MD)No.10223 of 2021
in

Crl.R.C.(MD)No.867 of 2021

Date :25/11/2021

Mrn

<https://hccvjce11.rajahmundry.gov.in/hccvjce11.2021/3P/7C>