



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

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

The Hon`ble Mrs.Justice R.THARANI

Crl.M.P.(MD)Nos.9640 and 9641 of 2021
in
Crl.R.C.(MD) No.821 of 2021

A.NAGARAJ ... PETITIONER/ PETITIONER / APPELLANT / ACCUSED
IN BOTH THE PETITIONS

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
BATHLAGUNDU POLICE STATION, BATHLAGUNDU,
DINDIGUL DISTRICT.
CRIME NO.462 OF 2010. ... RESPONDENT/ RESPONDENT / RESPONDENT /
COMPLAINANT IN BOTH THE PETITIONS

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend of Sentence imposed on the Petitioner vide Judgment made in Crl.A.No.27 of 2020 dated 4.9.2021 on the file of the Additional District and Session Judge,Dindigul,confirming the Judgment of conviction made in CC.No.227 of 2012 dated 26.11.2020,on the file of the Judicial Magistrate Court, Nilakottai pending disposal of the above Crl.R.C.,

Prayer in CRL MP(MD). 9641/ 2021 :

To Exempt the Petitioner from surrendering in connection with Judgment made in Crl.A.No.,.27 of 2020 dt.4.9.2021 on the file of the Additional District and Session Judge,Dindigul,confirming the Judgment of conviction made in CC.No.227 of 2012 dated 26.11.2020, on the file of the Learned Judicial Magistrate Court, Nilakottai pending disposal of the above Crl.R.C.,

Prayer in CRL RC(MD). 821/ 2021 :

To call for the entire records pertaining to the Judgment made in Crl.A.No.27 of 2020 dt.4.9.2021 on the file of the Additional District and Session Judge,Dindigul,confirming the Judgment of conviction made in CC.No.227 of 2012 dated 26.11.2020, on the file of the Learned Judicial Magistrate Court, Nilakottai, and to set-aside the same by allowing this Criminal Revision Petition.

Order : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.M.THIRUNAVUKKARASU, Advocate for the petitioner in both the petitions and of MR.K.SANJAY GANDHI, Government Advocate on behalf of the Respondent, the court made the following order:-



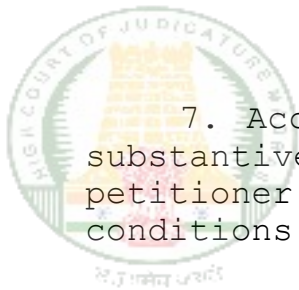
The case against the petitioner is that on 01.11.2010, at about 15.45 hours, the petitioner drove a Maruthi Omni Van bearing Registration No.TN-60-C-2383 in a rash and negligent manner and hit against the two wheeler caused injury to one person and death to the other person. A case in Crime No.462 of 2010 was registered by the respondent police and the same was taken on file as C.C.No.227 of 2012, on the file of the Judicial Magistrate, Nilakottai. After trial, the petitioner was found guilty under Sections 304(A), 279 and 338 I.P.C. The petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.10,000/-, in default, to undergo simple imprisonment for a period of two months under Section 304(A) IPC and sentenced to undergo simple imprisonment for one month and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month under Section 279 IPC and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month under Section 338 IPC, by judgment, dated 26.11.2020.

3. As against the said conviction and sentence, the petitioner filed an appeal in C.A.No.27 of 2020 before the Additional Sessions Court, Dindigul. The appeal was dismissed by the appellate Court. Aggrieved by which, the petitioner has preferred a revision case in Crl.R.C.(MD)No.821 of 2021. Along with the revision, he has filed the present applications (i) for suspension of sentence pending disposal of the said revision (ii) for exempting the petitioner to surrender before the trial Court.

4. On the side of the petitioner, it is stated that there is no evidence to prove that the petitioner was rash and negligent in driving the vehicle. The trial Court has failed to consider the evidence in the proper prospective. The trial Court has failed to consider the complaint Ex.P.1 and the chief examination of P.W.1. The petitioner was convicted by the trial Court. The trial Court took an adverse inference against the petitioner as a witness was not cross-examined on the date of examination in chief. There are much more points for arguments 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 petitioner was found guilty. The prosecution has examined 11 witnesses and marked 9 documents and proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

6. It is seen that there are some arguable points for consideration in the Criminal revision. Considering the nature of the offence, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.



7. Accordingly, Crl.M.P.(MD)No.9640 of 2021 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 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 Judicial Magistrate, Nilakottai;

(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 Judicial Magistrate, Nilakottai. **daily at 10.30 a.m.**, for a period of one month, thereafter, as and when required by the Court.

8. Accordingly, Crl.M.P.(MD)No.9641 of 2021 is dismissed.

sd/-
15/11/2021

/ TRUE COPY /

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

TO

- 1 THE ADDITIONAL DISTRICT AND SESSION JUDGE, DINDIGUL
- 2 THE JUDICIAL MAGISTRATE, NILAKOTTAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT.
- 4 THE INSPECTOR OF POLICE
BATHLAGUNDU POLICE STATION, BATHLAGUNDU, DINDIGUL DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to Mr.M.THIRUNAVUKKARASU, Advocate SR.No.8079.

ORDER IN
Crl.M.P.(MD)Nos.9640 and 9641 of 2021
in
Crl.R.C.(MD) No.821 of 2021
Date :15/11/2021

csm/mga

MK/PN/SAR.II/17.11.2021/3P/7C

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