



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

Tuesday, the Twenty First day of December Two Thousand and
Twenty One

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PRESENT

The Hon`ble Mrs.Justice R.THARANI

Crl. M.P. (MD) No.11605 of 2021
in
Crl.R.C. (MD) No.959 of 2021

K.ALAGURAJA

... PETITIONER/ PETITIONER/APPELLANT/
ACCUSED

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE
ARUPPUKOTTAI TALUK POLICE STATION,
VIRUDHUNAGAR DISTRICT
(CRIME NO.40 OF 2012).

... RESPONDENT/ RESPONDENT/ RESPONDENT/
COMPLAINANT

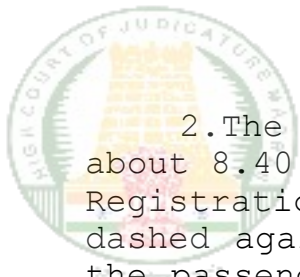
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed by the Learned Judicial Magistrate, Aruppukottai in CC No.315/2012 dated 05/09/2014 which is confirmed by the Honble Additional District Sessions Court in Crl A 41/2015 by the judgement dated 05/10/2021.

Prayer in CRL RC(MD). 959/ 2021 :

To call for the entire records relating to the Judgement in Crl.A.No.41/2015 dated 05/10/2021 passed by the Honble Additional District Sessions Court, Virudhunagar, confirming the judgement in CC No.315/2021 dated 05/09/2014 passed by the Learned Judicial Magistrate, Aruppukottai 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.MALAIKANI.S, Advocate for the petitioner and of MR.K.SANJAY GANDHI, Government Advocate on behalf of the Respondent while admitting the Criminal Revision Case the court made the following order:-

This petition has been filed to suspend the sentence imposed by the Judicial Magistrate, Aruppukottai, in C.C.No.315 of 2012, dated 05.09.2014, which is confirmed by the Additional District and Sessions Court, Virudhunagar, in Crl.A.No.41 of 2015, by the judgment dated 05.10.2021.



2.The case against the petitioner is that on 10.02.2012, at about 8.40 pm, the petitioner drove the vehicle (mini lorry) bearing Registration No.TN-67-Y-6189 in a rash and negligent manner and dashed against a two wheeler bearing Registration No.TN-67-AD-6144, the passengers in the two wheeler by name Pandi and Selvakumar died on the spot. A case in Crime No.40 of 2012 was registered against the petitioner and the case was taken on file as C.C.No.315 of 2012 by the Judicial Magistrate, Aruppukottai. After enquiry, the petitioner was found guilty under Section 304-A of I.P.C (2 counts) and he was sentenced to undergo six months rigorous imprisonment and to pay a fine of Rs.500/-, in default, to undergo a further period of three months simple imprisonment. Against that conviction and sentence, the petitioner preferred an appeal in CrI.A.No. 41 of 2015, before the Additional District and Sessions Court, Virudhunagar. That Appeal was dismissed by the first appellate Court. Against the same, the petitioner preferred a Revision in CrI.R.C.(MD)No.959 of 2021. Along with the Revision, the petitioner filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that there is contradictions in the evidence of P.W.1. In the F.I.R., it is stated that P.W.1 is an eye witness, whereas, in the cross examination of P.W.1, it is stated that when he was working in Govindaraja Mill, the intimation regarding the accident was received by him. But, he has deposed that he was seen the occurrence in person. Only based on the evidence of P.W.1, the trial Court convicted the petitioner. In a similar case, this Court has acquitted the accused, in similar circumstances. A judgment of this Court in CrI.R.C.(MD)No.233 of 2015, dated 22.01.2021 is cited. There are much more points for arguments in the Revision and prayed the sentence to be suspended.

4.On the side of the respondent, it is stated that it was the petitioner, who came in a rash and negligent manner and dashed against the two wheeler and caused the death of two persons. The prosecution has examined 7 witnesses and marked 10 documents and proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5.It is seen that the petitioner was absent on the date of the judgement in the Criminal Appeal. Hence, the petitioner is directed to surrender before the trial Court and then the petitioner is at liberty to file a petition.

6. With the above direction, this petition is disposed of.

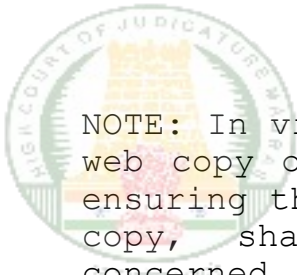
sd/-

21/12/2021

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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.

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TO

1. THE JUDICIAL MAGISTRATE, ARUPPUKOTTAI.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
3. THE INSPECTOR OF POLICE
ARUPPUKOTTAI TALUK POLICE STATION,
VIRUDHUNAGAR DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
Crl. M.P. (MD) No.11605 of 2021
in
Crl.R.C. (MD) No.959 of 2021
Date :21/12/2021

VB/CN/SAR-IV/05.01.2022/3P/5C