



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SESHASAYEE

Cr1.M.P.No.2207 of 2022

in

Criminal Appeal No.432 of 2021

1.Pandiammal
2.Assai Pandy
3.Malliga
4.Pandy Meena

... Petitioners
/Appellants/A-1 to A-4

..Vs..

State by
The Inspector of Police,
Tiruppur South Police Station,
Tiruppur (Crime No.856 of 2017)

... Respondent
/Complainant

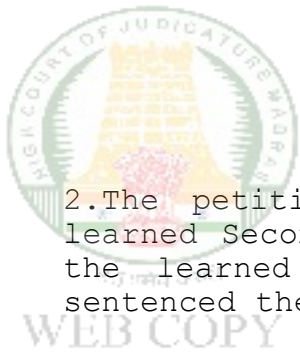
PRAYER: Criminal Miscellaneous petition filed under Section 389 (1) of Cr.P.C to suspend the sentence imposed by the learned Second Additional District and Sessions Judge, Tiruppur, in S.C.No.37 of 2018 on 22.07.2021 and enlarge the petitioners on bail till the disposal of Criminal Appeal.

For Petitioners : Mr.V.Parthiban

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Cr1.Side)

O R D E R

This Criminal Miscellaneous Petition has been filed by the petitioners/accused, seeking suspension of sentence of imprisonment imposed by the learned Second Additional District and Sessions Judge, Tiruppur, vide judgment in S.C.No.37 of 2018 on 22.07.2021 and to enlarge the petitioners on bail till the disposal of Criminal Appeal.



2.The petitioners faced trial in S.C.37 of 2018 on the file of learned Second Additional District and Sessions Judge, Tiruppur, and the learned Judge, vide judgment dated 22.07.2021 convicted and sentenced the appellants/petitioners as under:-

(ii) For offence under Section 201 IPC, A-1, A-3 and A-4 were convicted and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.3000/-, in default, to undergo six months simple imprisonment.

(i) For offence under Section 304 (2) IPC, A-1, A-3 and A-4 / petitioners 1, 3 and 4 were convicted and sentenced to undergo 7 years rigorous imprisonment and to pay a fine of Rs.5000/-, in default, to undergo six months simple imprisonment.

(iii) For offence under Section 304(2) IPC, A-2 was convicted and sentenced to undergo 7 years rigorous imprisonment and to pay a fine of 5000/-, in default, to undergo 6 months simple imprisonment.

(iv) For offence under Section 201 IPC A-2 was convicted and sentenced to undergo 3 years R.I., and to pay a fine of Rs.3000/- in default, to undergo 6 months simple imprisonment.

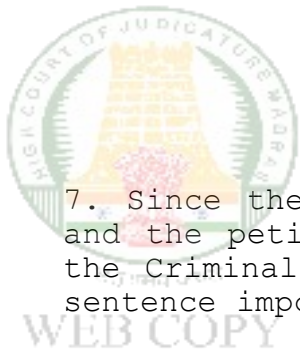
(v) For offence under Section 404 IPC, A-2/second appellant was convicted and sentenced to undergo rigorous imprisonment for 2 years and to pay a fine of Rs.2000/- in default to undergo simple imprisonment for 3 months. The said sentences are directed to run concurrently. Challenging the same, the present appeal has been filed along with this petition for suspension of sentence.

3.This Court heard the learned counsel for the appellants/petitioners and also perused the materials placed on record.

4.A-1 to A-4 were accused of murdering one Saravanan. He is son in law of A-1. Though charge was framed for the offence under Sections 302 and 201 IPC against A-1 to A-4 and for offence under Section 404 against the 2nd accused, A-1, A-3 and A-4 were convicted for offence under Sections 304(2) and 201 IPC and sentenced to undergo 7 years rigorous imprisonment.

5.The learned counsel for the appellants submitted that the appellants are undergoing sentence in prison for the past 11 months. Going through the nature of accusation against these accused, it is submitted that if at all prosecution has made out a case, it can still be a one where the accused persons were suppressing their sustained provocation and that it had given way to others.

6.This court perused the judgment and heard the learned Government Advocate (Criminal Side) and the rival submissions,



7. Since there are arguable points available in the Criminal Appeal and the petitioners/accused have got a fair chance of succeeding in the Criminal Appeal, this court is of the view that the substantive sentence imposed against the Petitioners/Accused may be suspended.

8. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioners, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the reliefs of suspension of sentence and bail are granted on the following conditions:

(a) The petitioners/accused are ordered to be released on bail, on each of them executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate No.II, Tiruppur.

(b) The petitioners/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioners 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 criminal appeal and if they are not able to appear before the Trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C and shall appear before the Trial Court on any other day in lieu of the date of their absence, as directed by the Trial Court.

9. This Criminal Miscellaneous Petition stands ordered accordingly.

-sd/-
24/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.



TO

1 THE SECOND ADDITIONAL DISTRICT
AND SESSIONS JUDGE, TIRUPPUR.

2 THE JUDICIAL MAGISTRATE,
NO.II, TIRUPPUR.

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
TIRUPPUR SOUTH POLICE STATION,
TIRUPPUR.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

7 THE SUPERINTENDENT,
SPECIAL PRISON FOR WOMEN,
COIMBATORE.

+2 C.C. to M/S. V.PARTHIBAN Advocate on payment of necessary
charges SR.NO. 2867 & 2956

Order

in
CRL MP.2207/2022
in
CRL A.432/2021

Date :24/02/2022

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

RW 28/02/2022