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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.Nos.4654 & 4655 of 2022

in Crl.R.C.No.450 of 2022

Basheerkhan,
S/o.Hussainkhan

...Petitioner /
Accused
[in both Crl.M.Ps]

versus

State rep.by,
The Inspector of Police,
Perambalur Police Station,
Perambalur District.
(Crime No.1088 of 2017)

...Respondent /
Complainant
[in both Crl.M.Ps]

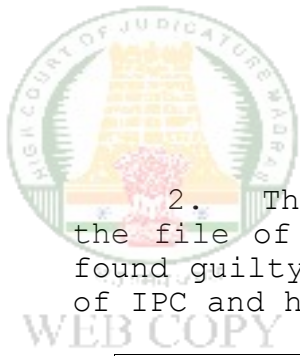
COMMON PRAYER: Criminal Miscellaneous Petitions have been filed under Sections 397 (1) r/w 439 & 482 of Cr.P.C., praying to suspend the sentence imposed on the petitioner by the learned Principal District and Sessions Judge, Perambalur, in Crl.A.No.8 of 2021 dated 02.03.2022, by confirming the judgment passed by the learned Judicial Magistrate No.I, Perambalur, in C.C.No.41 of 2018 dated 16.08.2021 and enlarge the petitioner and to exempt the petitioner from surrendering before the trial Court.

For Petitioner : Mr.G.Punniakoti
[in both Crl.M.Ps]

For Respondent : Mr.Leonard Arul Joseph Selvam
[in both Crl.M.Ps] Government Advocate (Crl. Side)

COMMON ORDER

These Criminal Miscellaneous Petitions have been filed by the petitioner/accused, seeking suspension of sentence imposed upon the petitioner in Crl.A.No.8 of 2021 dated 02.03.2022 by the learned Principal District and Sessions Judge, Perambalur, by confirming the judgment and sentence passed in C.C.No.41 of 2018 dated 16.08.2021 by the learned Judicial Magistrate No.I, Perambalur and enlarge the petitioner on bail and seeking to exempt the petitioner from surrendering before the trial court.



2. The petitioner herein is the accused in C.C.No.41 of 2018 on the file of the learned Judicial Magistrate No.I, Perambalur. He was found guilty of the offences punishable under Sections 279 and 304(A) of IPC and has been convicted and sentenced as under:

Offence	Sentence
Section 279 of IPC	Simple Imprisonment for 3 months along with fine of Rs.500/-, in default, to undergo Simple Imprisonment for 2 weeks
Section 304(A) of IPC	Simple Imprisonment for 1 year along with fine of Rs.2,000/-, in default, to undergo Simple Imprisonment for 1 month
The aforesaid sentences were ordered to run concurrently.	

3. Aggrieved against the same, the petitioner had filed appeal in CrI.A.No.8 of 2021 and the learned Principal District and Sessions Judge, Perambalur, by judgment dated 02.03.2022 had dismissed the appeal and confirmed the conviction and sentence, against which the present revision has been filed.

4. The case of the prosecution is that on 14.09.2017, at about 4.30a.m., the *de facto* complainant and the victim were standing in a tea shop, at that time, the accused drove his four wheeler bearing Registration No.TN-05-M-5794 in a rash and negligent manner and dashed against the victim, who sustained grievous injuries and died on the spot. Hence, a case has been registered against the petitioner for the offences punishable under Sections 279 and 304(A) of IPC.

5. According to the learned counsel for the petitioner, there are arguable points available in this Criminal Revision Petition and the petitioner has got a fair chance of succeeding in the Criminal Revision Petition. It is his specific submission that the petitioner is a diabetic patient, aged about 59 years and still asked to take rest. He would further submit that he is ready to produce the accused before the learned Judicial Magistrate No.I, Perambalur, with the help of stretcher. Hence, the substantive sentence imposed against the petitioner/accused may be suspended and the petitioner may be exempted from surrendering before the trial Court.

6. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent police raised serious objection for allowing this petition. He would further contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.



7. Heard Mr.G.Punniakoti, learned counsel appearing for the petitioner/accused and Mr.Leonard Arul Joseph Selvam, learned Government Advocate (Crl. Side), appearing for the respondent police and also perused the materials placed on record.

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8. Submissions made by the learned counsel appearing on either side are considered. The evidence given by P.W.1 in respect to the alleged occurrence needs a detailed appraisal. Here, it is a case, the revision petition is not likely to be taken up in the near future. In such a view of the matter, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions.

9. Accordingly, till the disposal of the Criminal Revision case, the reliefs of suspension of sentence, exemption from surrendering and bail are granted on the following conditions:

(a) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Perambalur;

(b) The petitioner/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; and

(c) The petitioner 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 appeal and if he is not able to appear before the trial Court on any day, he 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 her absence, as directed by the trial Court.

10. With the above directions, these Criminal Miscellaneous Petitions are ordered.

-sd/-
28/04/2022

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.



1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
PERAMBALUR.

2 THE JUDICIAL MAGISTRATE,
NO.I, PERAMBALUR.

3 THE CHIEF JUDICIAL MAGISTRATE
PERAMBALUR DISTRICT [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
PERAMBALUR POLICE STATION,
PERAMBALUR DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SECTION OFFICER
CRIMINAL SECTION,
HIGH COURT, MADRAS.

+1C.C. to M/S. G.PUNNIAKOTI Advocate on payment of necessary
charges SR.No.6437

Order
in
CRL MP.NOs.4654&4655/2022
in
CRL.RC.450/2022
Date :28/04/2022

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CSK 29/04/2022