



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

Monday, the Twenty Fourth day of January Two Thousand and Twenty Two
PRESENT

The Hon'ble Mrs.Justice R.THARANI

Crl.M.P.(MD)No.864 of 2022

in

Crl.A.(MD)No.441 of 2021

AYYAPPAN

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
KARAMABAKUDI POLICE STATION,
PUDUKKOTTAI DISTRICT.
(CRIME NO.214/2019).

... 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 and conviction imposed by the Learned Principal District and Sessions Court, Pudukkottai in S.C.No.21 of 2021 dated 04/10/2021 and enlarge the petitioner on bail pending disposal of the above said Criminal Appeal.

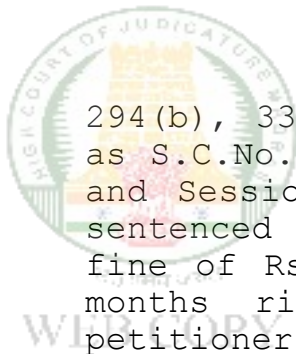
PRAYER IN CRL A(MD) No.441 of 2021 :

To call for the records and set aside the sentence and conviction imposed by Learned Principal District & Sessions Court, Pudukkottai in S.C.No.21 of 2021 dated 04.10.2021.

ORDER : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.KARUPPASAMY PANDIYAN.G, Advocate for the petitioner and of MR.K.SANJAY GANDHI, Government Advocate (Criminal) on behalf of the Respondent while admitting the Criminal Appeal, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Principal District and Sessions Judge, Pudukkottai, in S.C.No.21 of 2021 dated 04.10.2021, till the disposal of the appeal.

2.The allegation against the petitioner is that on 05.01.2019, at about 23.45 hours, when the Special Sub Inspector of Police along with a Constable and a Head Constable were all on patrol duty, the accused came in a two wheeler without a number plate. When he was enquired, the accused smoldered cigarette smoke on the face of P.W.1 and scolded the police in filthy language, slapped P.W.1 and attempted to kill him with a broken beer bottle. A case in Crime No.214 of 2019 was registered against the petitioner, under Sections



294(b), 332, 307 and 506(ii) of IPC and the same was taken on file as S.C.No.21 of 2021 on the file of the learned Principal District and Sessions Judge, Pudukkottai. The petitioner was convicted and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.5,000/- in default, to undergo a further period of six months rigorous imprisonment, under Section 332 of IPC. The petitioner was sentenced to undergo seven years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default to undergo a further period of one year rigorous imprisonment under Section 307 of IPC and acquitted the petitioner under Sections 294(b) and 506(ii) of IPC. Against the conviction and sentence, the petitioner has preferred an appeal in Crl.A.(MD)No.441 of 2021. Along with the appeal, the petitioner has filed a petition in Crl.M.P.(MD)No.10532 of 2021 for suspension of sentence and the same was dismissed by this Court, by an order dated 07.12.2021. Again the petitioner has filed the present petition for suspension of sentence pending disposal of the said appeal.

3.On the side of the petitioner, it is stated that the allegation against the petitioner is that he attacked the Police Officer with hands. There was no injury. Out of 10 witnesses examined by the trial Court, P.W.4 to P.W.8 turned hostile. The Investigating Officer has admitted that there was no document to prove that they were doing vehicle check up on that date. P.W.1 gave a statement before the Doctor that he was attacked by three known persons. But chargesheet was laid only against the sole accused. The beer bottle, which was alleged to have been used for commission of the offence was not seized by the respondent Police. There was absolute no evidence for arrest and recovery, since the witnesses turned hostile. The case against the accused is that he came in a two wheeler without a number plate. But the Investigating Officer has admitted that the number plate was available in the vehicle. The doctor was examined. The petitioner is in custody for the past 110 days and prayed the sentence to be suspended till the disposal of the appeal.

4.On the side of the prosecution, it is stated that when the defacto complainant and others were doing patrol duty, the accused came in an unnumbered vehicle. When the respondent Police questioned the same, the petitioner scolded them and criminally intimidated them. There is specific overt act against the petitioner. The prosecution has examined 10 witnesses and marked 9 documents and two material objects and proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5.Considering the above facts and circumstances of the case and considering that there are some arguable points for consideration in the main appeal and also considering the fact that the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to relief of suspension of sentence.



6. Accordingly, 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.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Principal District and Sessions Judge, Pudukkottai.

(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 their valid identity card to ensure their identity.

(iii) The petitioner shall appear before the trial Court daily at 10.30 a.m., until further orders.

sd/-
24/01/2022

/ TRUE COPY /

25/01/2022
Sub-Assistant Registrar (C.S-III)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
PUDUKKOTTAI.
2. THE INSPECTOR OF POLICE,
KARAMABAKUDI POLICE STATION,
PUDUKKOTTAI DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-389[I] dated 25/01/2022)

ORDER IN
CRL.M.P. (MD) NO.864 OF 2022
IN
CRL.A. (MD) NO.441 OF 2021
DATE : 24/01/2022

USK/VR/SAR-III/25.01.2022/3P/6C