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

Tuesday, the First day of February Two Thousand and Twenty Two

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.1259 of 2022
in
CRL RC(MD)No.74 of 2022

KAVI @ SUNDARA KAVISWARAR ... REVISION PETITIONER/RESPONDENT

Vs

1 THE SUB DIVISIONAL EXECUTIVE,
MAGISTRATE CUM SUB COLLECTOR,
PATTUKKOTTAI TALUK,
THANJAVUR DISTRICT. ...1st RESPONDENT/NIL

2 THE INSPECTOR OF POLICE,
THIRUCHITRAMBALAM POLICE STDATION,
THANJAVUR DISTRICT.
CR.NO. 316 OF 2021. ... 2nd RESPONDENT/PETITIONER

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 on the Petitioner by the order dated 29.09.2021 made in MC.No.36/2021/A3 on the file of Sub Divisional Executive Magistrate cum Sub Collector,Pattukkottai,Thanjavur District pending disposal of the above Criminal Revision petition.

PRAYER IN CRL RC(MD)No.74 of 2022:

Pleased to call for the records and set aside the order dated 29.09.2021 made in MC.No.36/2021/A3 on the file of Sub Divisional Executive Magistrate cum Sub Collector,Pattukkottai,Thanjavur District and allow the Criminal Revision.

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.A.ARUNPRASARD, Advocate for the petitioner and of MR.K.SANJAY GANDHI, Government Advocate on behalf of the Respondents, the court made the following order:-

This petition has been filed to suspend the sentence imposed on the petitioner by the order, dated 29.09.2021, made in M.C.No.36/2021/A3 on the file of Sub Divisional Executive Magistrate cum Sub Collector, Pattukkottai, Thanjavur District, till the disposal of the Criminal Revision.

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2. The second respondent referred a matter under Section 110 Cr.P.C to the first respondent. The first respondent took up the matter on file as M.C.No.36/ 2021. The petitioner has executed a bond on 27.02.2021, to maintain good behavior for a period of three years, before the first respondent. Subsequently, on 22.07.2021, the petitioner involved in an offence in Crime No.316 of 2021, under Sections 294(b), 452. 324 and 307 I.P.C.. On the request of the second respondent, the first respondent initiated proceedings under Section 122 (1)(b) Cr.P.C. and passed the impugned order. Against the impugned order, the petitioner preferred this Criminal Revision.

3. On the side of the petitioner, it is stated that the first respondent is having no authority to pass an order under Section 122 (1)(b) Cr.P.C.. A judgment of this Court reported in 2019 (2) MLJ (Criminal) 556 [P.Sathish @ Sathish Kumar V. State rep. by the Inspector of Police] was cited on the side of the petitioner and prayed the impugned order to be set aside.

4. On the side of the respondents, it is stated that the petitioner executed a bond to maintain good behavior for a period of three years and he violated the bond conditions and indulged in an offence in Crime No.316 of 2021. Sufficient opportunity was given to the petitioner. He examined the witnesses in the presence of the petitioner and recorded their evidence. Only after proper enquiry, the impugned order was passed by the first respondent . The petitioner is having eight previous cases and prayed the petition to be dismissed.

5. A perusal of the records reveals that the petitioner was produced before the first respondent on 28.09.2021. It is seen that the first respondent cross examined three witnesses on 28.09.2021. P.W.1 was the defacto complainant. P.W.3 was the Investigating Officer, who registered the F.I.R.P.W.2 was the independent witness. The petitioner did not deny the commission of offence. Photo copy of the injured was produced by the prosecution. It is seen that the first respondent has conducted enquiry and examined witnesses and opportunity for the petitioner to cross examine the witnesses was given.

6. Considering the previous antecedents of the petitioner, this Court is not inclined to suspend the sentence at the present stage. Hence, this Petition is dismissed.

sd/-
01/02/2022

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

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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.

TO

1 THE SUB DIVISIONAL EXECUTIVE
MAGISTRATE CUM SUB COLLECTOR,
PATTUKKOTTAI TALUK,
THANJAVUR DISTRICT.

2 THE INSPECTOR OF POLICE
THIRUCHITRAMBALAM POLICE STDATION,
THANJAVUR DISTRICT.

3 THE OFFICER INCHARGE,
DISTRICT JAIL,
PDUDUKKOTTAI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.1259 of 2022
IN
CRL RC(MD)No.74 OF 2022
Date :01/02/2022

PKP/PN/SAR-4/07.02.2022/3P/5C

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