



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

Wednesday, the Sixteenth day of March Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice R.SUBRAMANIAN
and
The Hon`ble Mr.Justice N.SATHISH KUMAR

CRL MP(MD) No.2559 of 2022
IN
CRL A(MD) No.108 of 2021

GANESAN

... APPELLANT/ACCUSED NO.1

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
MUTTHAIYAPURAM POLICE STATION,
THOOTHUKUDI DISTRICT.
CR.NO. 209 OF 2013.

... 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 against appellant in S.C.No. 329 of 2016 on the file of the Hon'ble Second Additional District Sessions Court, Thoothukudi dated 06/11/2019 and release the appellant on bail till the disposal of the appeal.

PRAYER IN CRL A(MD) No.108 of 2021 :

Pleased to call for the entire records connected to the judgment in S.C.No.329 of 2016 on the file of the Hon'ble Second Additional District Sessions Court, Thoothukudi dated 06.11.2019 and set aside the conviction and sentence imposed against the appellant.

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. ALAGUMANI R, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The petitioner seeks suspension of life sentence imposed on him for the offence under Section 302 I.P.C., vide judgment, dated 06.11.2019 in S.C.No.329 of 2016 on the file of the II Additional District and Sessions Court, Thoothukudi.



2. Heard Mr.R.Alagumani, learned counsel for the petitioner and Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor for the State.

3. Though Mr.R.Alagumani, learned counsel for the petitioner would invite us to examine the evidence of P.W.1, in an attempt to convince us that dying declaration is a result of tutoring and the conviction based on such dying declaration alone has to be viewed with suspicion, we do not propose to go into the evidence, as the same would have an effect on the disposal of the Criminal Appeal.

4. However, considering the nature of the offence as well as the fact that the petitioner has spent nearly two years in prison and the fact that he was on bail during trial, we deem it fit to suspend the sentence. Accordingly, the Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended, subject to the following conditions:

i. The petitioner is directed to be enlarged on bail on executing a bond for Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Thoothukudi.

ii. The petitioner shall appear before the Additional District and Sessions Court, Thoothukudi, on the first working day of every English Calendar month at 10.30 a.m., till the disposal of the Criminal Appeal.

sd/-
16/03/2022

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/ /2022

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

TO

1. THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THOOTHUKUDI.
2. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THOOTHUKUDI.
3. THE JUDICIAL MAGISTRATE NO.II,
THOOTHUKUDI.

4. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.

<https://hcservices.ecourts.gov.in/>



5. THE INSPECTOR OF POLICE,
MUTTHAIYAPURAM POLICE STATION,
THOOTHUKUDI DISTRICT.

6. THE SUPERINTENDENT,
CENTRAL PRISON,
PALAYAMKOTTAI.

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

+1 CC to M/s.R.ALAGUMANI, Advocate (SR-2096[I] dated 16/03/2022)

ORDER
IN
CRL MP(MD) No.2559 of 2022
IN
CRL A(MD) No.108 of 2021
Date :16/03/2022

USK/PN/SAR-II/21.03.2022/3P/9C