



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

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

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.3195 of 2022
in
CRL.A.(MD)No.171 of 2022

C.MADASAMY

... APPELLANT/ ACCUSED OFFICER

Vs

STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
NAGERCOIL, KANYAKUMARI DISTRICT.

... RESPONDENT/ COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to grant Suspension of sentence imposed in the conviction and Judgment in Special S.C No.4/2005 on the file of the Special Judge cum Chief Judicial Magistrate, Kanyakumari district at Nagercoil dated 15.02.2022 pending disposal of the above Criminal Appeal.

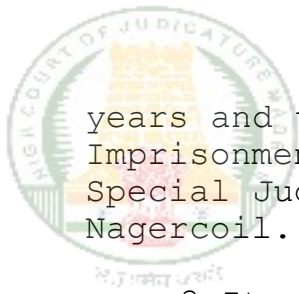
Prayer in CRL.A.(MD)No.171 of 2022:

To call for the records pertaining to the judgment in Special S.C.No.4 of 2005 on the file of the Special Judge cum Chief Judicial Magistrate, Kanyakumari district at Nagercoil dated 15.02.2022 and set aside the same and allow the above appeal.

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.KARUPPIAH.S, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, While admitting the CRL A., the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Special Judge cum Chief Judicial Magistrate, Kanyakumari District at Nagercoil, dated 15.02.2022 in S.C.No.4 of 2005 and enlarge the petitioner on bail.

2.The learned counsel for the petitioner submitted that the petitioner has been convicted by the learned trial judge, for the alleged offence under Section 13(2) r/W 13(1) (e) of the PC Act, 1988 and sentenced him to undergo imprisonment for a period of two



years and to pay a fine of Rs.5,000/-, in default to undergo Simple Imprisonment for 2 months in S.C.No.4 of 2005 on the file of the Special Judge cum Chief Judicial Magistrate, Kanyakumari District at Nagercoil.

3.It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. The learned counsel for the petitioner further submitted that suspension of sentence has already been granted by the trial court till 15.03.2022.

4.It is submitted by the learned Additional Public Prosecutor that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and he strongly opposed to grant suspension of sentence.

5.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

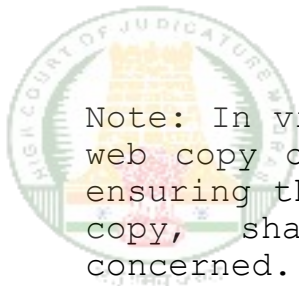
6.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7.Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute 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 Special Judge cum Chief Judicial Magistrate, Kanyakumari District at Nagercoil, and on further condition that the petitioner shall appear before the said Court once in a month on the 1st working day at 10.30 a.m. pending appeal.

sd/-
09/03/2022

/ TRUE COPY /

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



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.

WEB COPY

TO

1 THE SPECIAL JUDGE CUM CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
NAGERCOIL, KANYAKUMARI DISTRICT.

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

ORDER

IN

CRL MP(MD) No.3195 of 2022 in
CRL.A.(MD)No.171 of 2022

Date :09/03/2022

dss

MS/VR/SAR-3/11.03.2022/3P.4C