



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

Thursday, the Nineteenth day of May Two Thousand and Twenty Two

PRESENT

The Hon`ble Mrs.Justice T.V.THAMILSELVI

CRL MP(MD) No.4413 of 2022
IN
CRL A(MD) No.266 of 2022

1 RAJAPUTHIRAN

2 SEKARLAL

3 JOHN @ MADAL

4 SATHANANTHAM

... PETITIONERS/APPELLANTS

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
KALIYAKAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.
CR.NO. 24 OF 2009.

... RESPONDENT/RESPONDENT

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 in SC.No.8 of 2010 dated 18.03.2022 on the files of learned Assistant Sessions Judge, Kuzhithurai pending disposal of this Criminal Appeal.

PRAYER IN CRL A(MD)No.266/2022:

Pleased to call for the records and set aside the conviction and sentence dated 18-03-2022 made in S.C.No.8 of 2010 on the files of the Hon'ble Assistant Sessions Judge, Kuzhithurai.

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.HEROLD SINGH.S.C., Advocate for the petitioners and of M/s.M.AASHA, Government Advocate(crl.side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the petitioners to suspend the sentence imposed by the learned Assistant

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Sessions Judge, Kuzhithurai in S.C.No.8 of 2010 dated 18.03.2022, till the disposal of the appeal.

2. The allegation against the petitioners is that they made an attempt to murder the defacto complainant. A case in Crime No.24 of 2009 was registered against the petitioners and the same was taken on file as S.C.No.8 of 2010 on the file of the Assistant Sessions Court, Kuzhithurai. The Assistant Sessions Court, Kuzhithurai found the first and second petitioners guilty under Sections 341, 294(b), 307, 506(ii) IPC and convicted and sentenced them to undergo one month simple imprisonment each for the offence under Section 341 IPC, to undergo one month imprisonment each for the offence under Section 294(b) IPC, to undergo 10 years imprisonment each for the offence under Section 307 IPC and to undergo two years imprisonment each for the offence under Section 506(ii) IPC. With regard to third and fourth petitioners the trial Court found guilty under Sections 341, 323, 307 r/w 34 IPC and convicted and sentenced them to undergo one month imprisonment each for the offence under Section 341 IPC, to undergo six months imprisonment each for the offence under Section 323 IPC, to undergo 10 years imprisonment each for the offence under Section 307 r/w 34 IPC. Against the conviction and sentence, the petitioners have preferred an appeal in Crl.A.(MD) No.266 of 2022 before this Court. Along with the appeal, the petitioners have filed the present petition for suspension of sentence pending disposal of the said appeal.

3. The learned counsel appearing for the petitioners submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and the petitioners are in custody from the date of Judgment and hence, prayed the sentence to be suspended till the disposal of the appeal.

4. The learned Government Advocate (Crl.Side) has submitted that the petitioners 1 & 2 are having more than 25 previous cases and the petitioners 3 & 4 are not having any previous cases at their credit.

5. Considering the facts and circumstances of the case and also considering the objection made by the learned Government Advocate, this Court is not inclined to suspend the sentence against the petitioners 1 & 2 and the petitioners 3 & 4 alone are entitled for the relief of suspension of sentence.

6. Accordingly, this petition is dismissed in respect of petitioners 1 & 2 and insofar as the petitioners 3 & 4 is concerned the substantive sentence of imprisonment alone is suspended and the petitioners 3 & 4 directed to be enlarged on bail, on condition that the petitioners 3 & 4 shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties each to the satisfaction of the learned Assistant Sessions



Judge, Kuzhithurai and on further condition that the petitioners 3 & 4 shall appear before the said Court weekly once i.e., on every Wednesday at 10.30 a.m. pending disposal of the appeal.

sd/-
19/05/2022

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20/05/2022

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

TO

- 1 THE ASSISTANT SESSIONS JUDGE,
KUZHITHURAI.
- 2 THE ADDITIONAL SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.
- 3 THE INSPECTOR OF POLICE
KALIYAKAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S.HEROLD SINGH S.C. Advocate SR.No.4916

ORDER

IN

CRL MP(MD) No.4413 of 2022

IN

CRL A(MD) No.266 of 2022

Date :19/05/2022

SA/SVR/SAR.2/20.05.2022/3P/6C