



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

Friday, the Twenty Second day of July Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.6578 of 2022
IN
CRL A(MD)No.371 of 2022

THANGAMALAR

... PETITIONER/APPELLANT

Vs

1 THE STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
SAMAYANALLUR SUB DIVISION,
MADURAI DISTRICT.

2 THE INSPECTOR OF POLICE
VADIPATTY POLICE STATION,
MADURAI DISTRICT
(CRIME NO. 274 OF 2019)

3 PANDI

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the setence of Imprisonment imposed by the learned III Additional District and Sessions Court, Madurai in Spl.S.C. No. 15 of 2020 by the Judgment dated. 25.05.2022 and enlarge the Petitioner/Appellant on bail, pending disposal of the above said Criminal Appeal.

PRAYER IN CRL A(MD).371 of 2022:

Pleased to call for the records and set aside the conviction of the Appellant/Accused in Spl.S.C.No.15 of 2020 dated 25-05-2022 by the learned III Additional District and Sessions Court(PCR), Madurai by allowing this 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.PAUL KANAGARAJ.R.C, Advocate for the petitioner and of Mr.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondents No.1 & 2, the court made the following order:-



RESERVED ON	04.07.2022
PRONOUNCED ON	22.07.2022

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in Spl.S.C.No.15 of 2020, dated 25.05.2022, on the file of the learned III Additional District and Sessions Judge, Madurai, in Crime No.274 of 2019 on the file of the second respondent police, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the petitioner and other accused attacked the defacto complainant and abused him by using caste name and also threatened him.

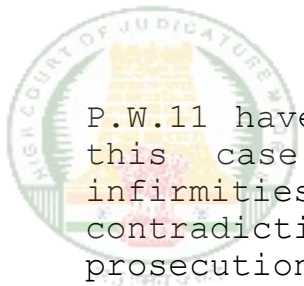
3. On the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.274 of 2019 against the petitioner and others for the alleged offences under Sections 294(b), 324, 506(2) and 379 (NP) of IPC r/w Sections 3(l)(r), 3(l)(s) and 3(2)(va) of SC/ST (POA) Act.

4. The second respondent, after completing the investigation, has filed a final report against the petitioner and the case was taken on file in Spl.S.C.No.15 of 2020

5. During the trial, the prosecution has examined 11 witnesses as P.W.1 to P.W.11 and exhibited 11 documents as Ex.P.1 to Ex.P.11, whereas, the accused has adduced neither oral nor documentary evidence.

6. The learned Sessions Judge, upon considering the evidence and on hearing the arguments advanced by both the sides, has passed the impugned judgment dated 25.05.2022 convicting the petitioner/sole accused for the offence under Section 294(b) IPC and sentenced her to undergo three months simple imprisonment and to pay a fine of Rs.500/-, in default, to undergo one week simple imprisonment, for the offence under Section 3(l)(s) of SC/ST Act and sentenced her to undergo five years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months simple imprisonment and for the offence under Section 323 IPC and sentenced her to undergo one year simple imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo two weeks simple imprisonment and that the above sentences were ordered to be run concurrently. Aggrieved by the said judgment of conviction and sentence, the petitioner preferred the present appeal along with the above application for suspension of sentence.

7. The learned counsel for the petitioner would submit that there are no other corroborating evidence or material to support the version of the defacto complainant/P.W.1 and that the learned trial Judge has failed to note that the investigating officers P.W.10 and



P.W.11 have not given any reason for deleting the other ac in this case. He would further submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

WEB COPY

8. The learned Additional Public Prosecutor would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

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

10. 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.

11. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned III Additional District and Sessions Court (PCR), Madurai.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the concerned Court on all working days at 10.30 a.m., until further orders and if she is not able to appear before the trial Court on any day, she shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of her absence, as directed by the trial Court.

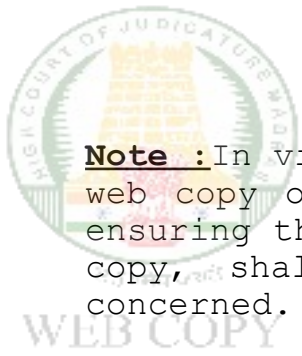
sd/-

22/07/2022

/ TRUE COPY /

25/07/2022

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.

TO

- 1 THE III ADDITIONAL DISTRICT & SESSIONS JUDGE (PCR),
MADURAI.
- 2 THE SUPERINTENDENT
SPECIAL PRISON FOR WOMEN,
CENTRAL PRISON,
MADURAI.
- 3 THE DEPUTY SUPERINTENDENT OF POLICE,
SAMAYANALLUR SUB DIVISION,
MADURAI DISTRICT.
- 4 THE INSPECTOR OF POLICE
VADIPATTY POLICE STATION,
MADURAI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S.PAUL KANAGARAJ R C Advocate SR.No.7553

ORDER

IN

CRL MP (MD) No.6578 of 2022
IN

CRL A (MD) No.371 of 2022

Date :22/07/2022

SA/PN/SAR.4/25.07.2022/4P/7C