



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

Wednesday, the Twenty Seventh day of July Two Thousand and Twenty
Two

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL.M.P. (MD)No.6556 of 2022
in
CRL.A. (MD)No.369 of 2022

1 NOYAL JERALD
2 GUNASEELAN

... PETITIONERS / APPELLANTS

Vs

THE ASSISTANT COMMISSIONER OF POLICE,
THILAGAR THIDAL (LAW AND ORDER),
MADURAI CITY,
MADURAI DISTRICT
(CRIME NO.319/2017
OF S.S.COLONY POLICE STATION)

... RESPONDENT / RESPONDENT

2 SEETHARAMAN
(R2 IMPEADED AS PER ORDER OF THIS
HON`BLE COURT DATED 06.07.2022 IN CRL MP
(MD)No.7710 OF 2022 IN CRL A(MD)No.369
of 2022)

... 2nd RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioners on bail by suspending the sentence imposed by the III Additional District and Sessions Judge (PCR), Madurai in Spl.S.C.No. 157 of 2018 by judgment dated 24.05.2022, pending disposal of the main Criminal Appeal on the file of this Hon`ble Court.

Prayer in CRL.A.(MD)No.369 of 2022:

To call for the records in the judgment of the III Additional District and Sessions Judge (PCR), Madurai made in Spl.S.C.No.157/2018 on his file dated 24.05.2022 and set aside the same.

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.S.RAMASAMY, Advocate for the petitioner and of MR.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the 1st Respondent, the court made the following order:-



Reserved on : 25.07.2022

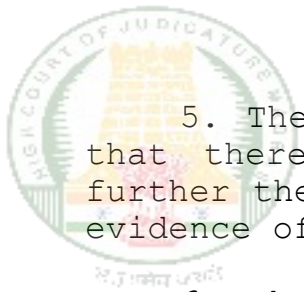
Delivered on : 27.07.2022

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the learned III Additional District and Sessions Judge (PCR), Madurai, in S.C.No.157 of 2018, dated 24.05.2022, till the disposal of the appeal.

2. The case of the prosecution is that there was a wordy quarrel between the petitioners/accused and the defacto complainant, due to which, the petitioners scolded with filthy language and abused by caste name and threatened the defacto complainant and also assaulted him. On the basis of the complaint lodged, FIR came to be registered in Crime No.319 of 2017, for the offence under Sections 420, 294(b), 506(i), 341, 323 IPC and Section 3(1)(s) of SC/ST (POA) Act. After completing the investigation, the respondent Police has laid the final report and the case was taken on file in Spl.S.C.No.157 of 2018.

3. During trial, the prosecution has examined 11 witnesses as P.W.1 to P.W.11 and exhibited 9 documents as Ex.P.1 to Ex.P.9. The accused has examined two witness as D.W.1 and D.W.2 and exhibited one document as Ex.D.1

4. The learned Special Judge, upon considering the evidence adduced and on hearing the arguments of both the sides, has passed the impugned judgment, dated 24.05.2022, convicting the petitioner/A1 for the offence under Section 294(b) IPC and sentenced him to undergo 3 months simple imprisonment and to pay a fine of Rs.500/-, in default to undergo for a period of one week simple imprisonment and convicting him for the offence under Section 506(i) IPC and sentenced him to undergo 2 years Rigorous Imprisonment and to pay a fine of Rs.5,000/- in default to undergo for three months simple imprisonment; and convicting the petitioner/A2 for the offence under Section 341 IPC and sentenced him to undergo for a period of one month simple imprisonment and to pay a fine of Rs.500/- in default to undergo for a period of one week simple imprisonment, and convicting him for the offence under Section 323 IPC and sentenced him to undergo for a period of one year simple imprisonment and to pay a fine of Rs.1000/- in default to undergo for a period of two weeks simple imprisonment. Further, the learned Special Judge has convicted the petitioners/A1 and A2 for the offence under Sections 3(1)(s) of SC/ST Act r/w 34 IPC and sentenced each to undergo five years rigorous imprisonment and each to pay a fine of Rs.10,000/- in default to undergo each for a period of six months simple imprisonment. Aggrieved by the said conviction and sentence imposed by the trial Court, the petitioners have preferred the above appeal.



5. The learned counsel appearing for the petitioners, stated that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

6. The learned Additional Public Prosecutor appearing for the respondent submitted that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

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

8. The learned counsel appearing 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 suspension of sentence.

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

(i) the petitioners are directed to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate III Additional District and Sessions Judge (PCR), Madurai ;

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iii) The petitioners shall appear before the trial Court on all working days at 10.30 am, until further orders and if they are not able to appear before the trial Court on any day, they 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 his absence, as directed by the trial Court.

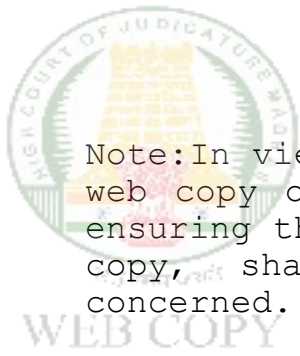
sd/-

27/07/2022

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27/07/2022

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 AND SESSIONS JUDGE, (PCR)
MADURAI.

2 THE ASSISTANT COMMISSIONER OF POLICE,
THILAGAR THIDAL (LAW AND ORDER),
MADURAI CITY,
MADURAI DISTRICT

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1. C.C. to Mr.S.RAMASAMY, Advocate SR.No.7769.

ORDER
IN
CRL.M.P. (MD) No.6556 of 2022
in
CRL.A. (MD) No.369 of 2022
Date : 27/07/2022

das
MK/VR/SAR.IV/27.07.2022/4P/6C