



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

Monday, the Twenty Ninth day of August Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.8554 of 2022
in
Crl.R.C. (MD)No.693 of 2022

MUTHAIAH

... PETITIONER/PETITIONER/
APPELLANT/SOLE ACCUSED

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
KRISHNANKOIL POLICE STATION,
SRIVILLIPUTHUR,
VIRUDHUNAGAR DISTRICT.
CRIME NO.211 OF 2012.

... RESPONDENT/RESPONDENT/
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 as against the Petitioner passed by the Learned Judicial Magistrate No.II, Srivilliputhur, Virudhunagar District in CC.No.32 of 2013 dated 09.01.2018, confirming the said order by the Learned Principal District and Session Court, Virudhunagar District at Srivilliputhur in C.A.No.13 of 2018 dated 17.12.2021, pending disposal of the above Criminal Revision Petition.

PRAYER IN Crl.R.C. (MD)No.693 of 2022 :

To call for the records and set-aside the order of conviction inflicted as against the petitioner passed in C.C.No.32 of 2013 on the file of the Learned Judicial Magistrate No.II, Srivilliputhur, Virudhunagar District dated 09.01.2018, confirming the said order passed by the Learned Principal District and Session Court, Virudhunagar District at Srivilliputhur in C.A.No.13 of 2018 dated 17.12.2021.

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.M.RADHAKRISHNAN, Advocate for the petitioner and of MR.S.MANIKANDAN, Government Advocate (Crl.Side) on behalf of the Respondent, while admitting the Crl.R.C. the court made the following order:-



This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate No.II, Srivilliputhur, Virudhunagar District, in C.C.No.32 of 2013, dated 09.01.2018, which was confirmed by the learned Principal District and Sessions Court, Virudhunagar District at Srivilliputhur, in C.A.No.13 of 2018, dated 17.12.2021, till the disposal of this Criminal Revision.

2.The case of the prosecution is that on 19.10.2022 at about 06.50 p.m., one Sundararaj was boarding in the front side of the bus, the accused/driver has drove the bus in a rash and negligent manner and as a consequence, the said Sundararaj fell down on the road and back wheel of the bus run over him and consequently, the said Sundararaj died on the spot.

3.The respondent police, after completing the investigation, has filed the final report and the case was taken on file in C.C.No.32 of 2013 on the file of the learned Judicial Magistrate No.II, Srivilliputhur, Virudhunagar District.

4.The learned counsel for the petitioner would submit that the petitioner/first accused has been convicted by the trial Court for the alleged offence under Section 304(A) IPC and sentenced him to undergo one year Simple Imprisonment and to pay a fine of Rs.1,000/- in default to undergo one month Simple.

5.Challenging the above said conviction and sentence, the petitioner has filed an appeal in C.A.No.13 of 2018 on the file of the learned Principal District and Sessions Court, Virudhunagar District at Srivilliputhur. The learned Principal District and Sessions Court, Virudhunagar District at Srivilliputhur, confirmed the conviction and sentence and dismissed the appeal. Being dissatisfied with the dismissal of the appeal, the petitioner has preferred the present Criminal Revision Case along with the present miscellaneous petition seeking suspension of sentence.

6.The learned counsel for the petitioner 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. He would further submit that the petitioner has already paid fine amount.

7.The learned Government Advocate (Criminal Side) appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

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



9. The learned counsel for the petitioner has raised substantial points in the memorandum of revision, which require a detailed consideration by this Court. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner and the period of incarceration and considering the fact that the Criminal Revision Case is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

10. Accordingly, the relief of suspension of sentence and bail 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 Judicial Magistrate No.II, Srivilliputhur, Virudhunagar District;

(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 trial Court on all working days at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he 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/-
29/08/2022

/ TRUE COPY /

29/08/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.



2. THE JUDICIAL MAGISTRATE NO.II,
SRIVILLIPUTHUR, VIRUDHUNAGAR DISTRICT.
3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
4. THE INSPECTOR OF POLICE,
KRISHNANKOIL POLICE STATION,
SRIVILLIPUTHUR,
VIRUDHUNAGAR DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.RADHAKRISHNAN, Advocate (SR-9205[I] dated
29/08/2022)

ORDER
IN
CRL MP (MD) No.8554 of 2022
in
Crl.R.C. (MD) No.693 of 2022
Date :29/08/2022

sj i
USK/VR/SAR-II/29.08.2022/4P/7C