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CRL MP(MD)



'22

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

Tuesday, the Thirtieth day of August Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.8579 of 2022

IN

CRL RC(MD) No.700 of 2022

PANDIARAJAN

... PETITIONER/PETITIONER

Vs

STATE REP.BY

THE INSPECTOR OF POLICE

AMMAYANAYAKKANUR POLICE STATION,

DINDIGUL DISTRICT.

CR.NO.269/2010

... 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 of Imprisonment imposed by the learned Additional Distirct and Sessions Judge, Dindigul in Crl.A.No.80 of 2019 by the Judgment dt 17.06.2022 confirming the conviction and sentence imposed by the learned Judicial Magistrate, Nilakkottai in C.C.No.326 of 2014 dated 31.10.2019 and enlarge the petitioner on bail, pending disposal of the Criminal Revision.

Prayer in CRL RC(MD) . 700/ 2022 :

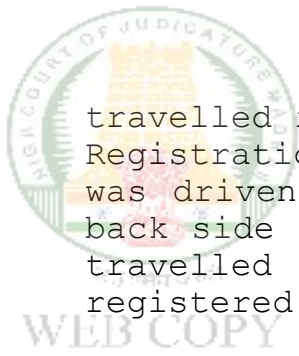
To call for the records of the learned Additional District and Sessions judge, Dindigul in Crl.A.No.80/2019 dt 17.06.2022 confirming the conviction and sentence imposed by learned judicial Magistrate, Nilakkottai in C.C.No.326/2014 dt 31.10.2019 and set aside the judgments of the Courts below and acquit the Petitioner.

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.S.MAHENDRAPATHY, Advocate for the petitioner and of MR.S.MANIKANDAN, Government Advocate (Crl.Side) on behalf of the Respondent, 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, Nilakkottai, in C.C.No.326 of 2014, dated 31.10.2019, which was confirmed by the learned Additional District and Sessions Judge, Dindigul, in C.A.No.80 of 2019, dated 17.06.2022, till the disposal of this Criminal Revision.

2.The case of the prosecution is that, on 16.09.2010 at about 09.35 hrs., Madurai to Dindigul four way track, Oothupatti Pirivu, a bus bearing Registration No.TN-57-M-7495 dropped the passengers who

<https://www.mhc.tn.gov.in/judis>



travelled in the said bus. At that time, Srivel Murugan bus Registration No.TN-58-S-8894, came from Dindigul to Madurai, which was driven by its driver with rash and negligent manner and dashed back side on the said bus and caused injuries to the passengers who travelled in the said bus and on that basis, FIR came to be registered in Crime No.269 of 2010.

3.The respondent police, after completing the investigation, has filed the final report and the case was taken on file in C.C.No.326 of 2014 on the file of the learned Judicial Magistrate, Nilakkottai, Dindigul District.

4.The learned counsel for the petitioner would submit that the petitioner has been convicted by the trial Court and sentenced to undergo 2 Years of Simple Imprisonment for an offence under Section 304(A) IPC, and imposed fine of Rs.1,000/-, in default, 2 weeks of Simple Imprisonment for the offence under Section 279 of IPC, and imposed fine of Rs.500/- for each count, in default, to undergo One week of Simple Imprisonment for an offence under Section 337 IPC (35 counts), and imposed to pay fine of Rs.1,000/-for each count, in default, to undergo 2 weeks of Simple Imprisonment for an offence under Section 338 IPC (5 counts).

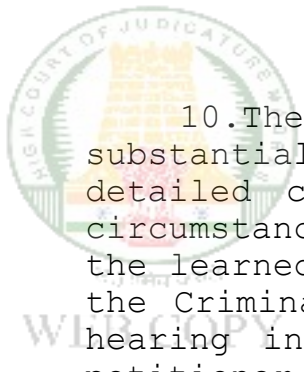
5.Challenging the above said conviction and sentence, the petitioner has filed an appeal in C.A.No.80 of 2019 on the file of the learned Additional District and Sessions Judge, Dindigul. The learned Additional District and Sessions Judge, Dindigul, confirmed the conviction and sentence and dismissed 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.Admittedly, after filing the suspension of sentence petition, the petitioner surrendered before the trial Court on 01.08.2022 and is in custody till now.

7.The learned counsel for the petitioner would 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.

8.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.

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 has made 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 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.

11. 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, Nilakkottai, Dindigul 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/-

30/08/2022

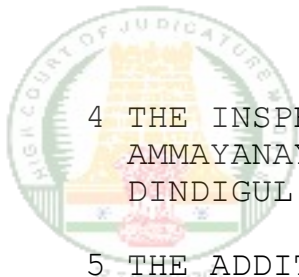
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01/09/2022

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

TO

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
DINDIGUL.
- 2 THE JUDICIAL MAGISTRATE,
NILAKKOTTAI,
DINDIGUL DISTRICT.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT.



4 THE INSPECTOR OF POLICE,
AMMAYANAYAKKANUR POLICE STATION,
DINDIGUL DISTRICT.

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

ORDER

IN

CRL MP(MD) No.8579 of 2022

IN

CRL RC(MD) No.700 of 2022

Date :30/08/2022

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RS/VR/SAR.2 (01.09.2022) 4P-6C