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CRL MP(MD)



22

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

Wednesday, the Fourteenth day of September Two Thousand and Twenty
Two

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP (MD) No.9873 of 2022

IN

CRL RC (MD) No.798 of 2022

MOHAMED ISMAIL

... REVISION PETITIONER
/APPELLANT/PETITIONER

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
KADAYAM POLICE STATION,
TIRUNELVELI DISTRICT.
CRIME NO.28 OF 2015.

... 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 in C.C No.81 of 2016 in Crime No.28 of 2015 on the file of the respondent, dated on 02.09.2022 wherein the same was confirmed in C.A No.46 of 2020 on the file of the Learned 3rd Additional District and Sessions Judge, Tirunelveli dated on 24.06.2022.

Prayer in CRL RC(MD) No.798 of 2022 :

To admit this Revision of file, to call for the records from that the Learned Appellate Courts and set aside the judgment passed by the Appellate court Judgment in C.A.No.46 of 2020 on the file of the Learned 3rd Additional District and Sessions Judge, Tirunelveli dated on 24.06.2022 wherein confirmed the Judgment passed by the Learned Judicial Magistrate, Ambasamuthram in C.C.No.81 of 2016 in crime no.28 of 2015 on the file of the respondent dated on 02.09.2022 by allowing this Revision.

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.JINNAH.S.M.A, Advocate for the petitioner and of MR.S.MANIKANDAN, Government Advocate (Crl.Side) on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

The petitioner was convicted by the Judgment dated 02.09.2020 by the learned Judicial Magistrate Court, Ambasamuthram, in C.C.No.81 of 2016 in the following manner:



(a) The petitioner was found guilty for the offence punishable under Section 279 IPC and imposed fine of Rs.500/-, in default to undergo fifteen days simple imprisonment. He was also found guilty for the offence punishable under Section 337 IPC and imposed fine of Rs.500/-, in default sentenced to undergo fifteen days simple imprisonment, he was also found guilty for the offence punishable under Section 304(A) IPC and sentenced to undergo 6 month simple imprisonment and imposed fine of Rs.1,000/-, in default sentenced to undergo one week simple imprisonment.

2. Aggrieved by the same, the petitioner has preferred an appeal in C.A.No.46 of 2020, before the III Additional District and Sessions Court, Tirunelveli and the Appellate Court dismissed the same and confirmed the conviction passed by the trial Court by Judgment dated 24.06.2022. Hence, the petitioner seeks suspension of sentence.

3. The learned counsel appearing for the petitioner would submit that the petitioner was not in jail.

4. Heard the submissions of the learned Additional Public Prosecutor and he also admits that the petitioner is not jail.

5. The legality of sentence is only challenged in this petition on the ground that without appreciating the contradictory evidence between the prosecution witnesses, the trial Court as well as the appellate Court has come to the concurrent finding and passed the conviction and sentence and further, the revision case is not likely to be taken up for final hearing in the near future, I am of the considered opinion that the petitioner is entitled for the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate Court, Ambasamuthram and on further condition that the petitioner shall appear before the said Court at 10.30 a.m. on the first working day of every English Calendar month, pending disposal of the appeal.

sd/-

14/09/2022

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19/09/2022

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



TO

1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, TIRUNELVELI.

2 THE JUDICIAL MAGISTRATE, AMBASAMUTHRAM.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.

4 THE INSPECTOR OF POLICE, KADAYAM POLICE STATION,
TIRUNELVELI DISTRICT.

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

ORDER

IN

CRL MP(MD) No.9873 of 2022

IN

CRL RC(MD) No.798 of 2022

Date :14/09/2022

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RS/VR/SAR.1 (19.09.2022) 3P-6C