



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

Thursday, the Fourth day of August Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice V.SIVAGNANAM

CRL MP(MD) No.9051 of 2022
in
Crl.R.C.(MD)No.734 of 2022

EDWINRAJ

... REVISION PETITIONER/ACCUSED

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
KALIYAKAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.
CRIME NO.143 OF 2008.

... 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 passed by the Additional Sessions Judge, Kuzhithurai 1st Appellate Court in Crl.A.No.70 of 2018 dated 13.07.2022 confirming the sentence of one year Simple Imprisonment passed by the Judicial Magistrate Court No-1, Kuzhithurai and stay the operation of the Judgment of the C.C.No.182 of 2008, dated 16.05.2018 till the disposal of this revision petition.

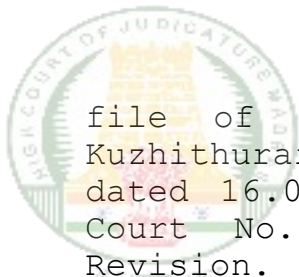
Prayer in CRL RC(MD) . 734/2022 :

To call for the records and set aside the order of conviction and sentence confirmed by the Additional Sessions Court in CA.No.70 of 2018 dated 13.7.2022 convicting the Revision Petitioner in CC.No.182 of 2008 dated 16.5.2018 for the offences U/s.279,338 and 304(A) (2 counts) of IPC to undergo simple imprisonment for one year and to pay a total fine of Rs.11,500/- may be set aside and acquit the revision 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.TITUS S, Advocate for the petitioner and of MR.SANJAY GANDHI, Government Advocate on behalf of the Respondent, while admitting the Crl.RC., the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in C.A.No.70 of 2018 dated 13.07.2022, on the

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



file of the learned Additional District and Sessions Judge, Kuzhithurai, by confirming the sentence passed in C.C.No.182 of 2008 dated 16.05.2018, on the file of the learned Judicial Magistrate Court No.1, Kuzhithurai, till the disposal of this Criminal Revision.

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2. The case of the prosecution is that on 15.03.2008 at about 09.15 p.m., the accused had driven the vehicle bearing Registration No.TN-74-W-9021 in a rash and negligent manner and dashed against the vehicle bearing Registration No.TN-74-Y-5695, in which the deceased were travelling in Kuzhithurai to Arumani Road. Due to that, the deceased were died on the spot. Hence, the complaint.

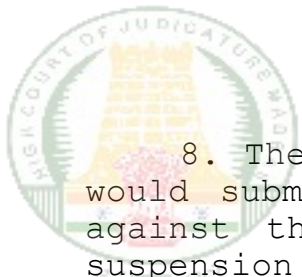
3. On the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.143 of 2008 dated 16.03.2008.

4. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 279, 338 and 304(A) (2 counts) IPC and the case was taken on file in C.C.No.182 of 2008 on the file of the learned Judicial Magistrate No.1, Kuzhithurai.

5. The learned trial Judge, upon considering the evidence adduced and on hearing the arguments of both sides, has passed the impugned judgment dated 16.05.2018 convicting the petitioner/sole accused for the offence under Section 279 IPC and sentenced to pay a fine of Rs.500/-, in default, to undergo one month Simple Imprisonment, for the offence under Section 338 IPC and sentenced to pay a fine of Rs.1,000/-, in default, to undergo one month Simple Imprisonment and for the offence under Section 304(A) (2 counts) IPC and sentenced to undergo one year Simple Imprisonment for each count and to pay a fine of Rs.5,000/- for each count, in default, to undergo three months Simple Imprisonment for each count. Challenging the above said conviction and sentence, the petitioner has preferred an appeal in C.A.No.70 of 2018 on the file of the learned Additional District and Sessions Judge, Kuzhithurai. The Appellate Court confirmed the conviction and sentence and dismissed the appeal. Being dissatisfied with the said conviction and sentence, the petitioner has preferred the present Criminal Revision Case along with the above Miscellaneous Petition seeking suspension of sentence and bail.

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

7. 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.



8. The learned Government Advocate 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.

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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 revision and further the criminal revision 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 Judicial Magistrate No.1, Kuzhithurai;

(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 once in a month i.e., on first working day of every English calendar month 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/-
04/08/2022

/ TRUE COPY /

04/08/2022
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 ADDITIONAL SESSIONS JUDGE,
KUZHITHURAI.
 2. THE JUDICIAL MAGISTRATE NO.I,
KUZHITHURAI.
 3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
 4. THE INSPECTOR OF POLICE,
KALIYAKAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.
 5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S.TITUS S Advocate SR.No.8132.

ORDER IN
CRL MP(MD) No.9051 of 2022
in
Crl.R.C.(MD)No.734 of 2022
Date :04/08/2022

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