



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Tuesday, the Twenty Third day of August Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

Crl.M.P(MD)No.9847 of 2022

in

Crl.A.(MD)No.517 of 2022

1 MAHESH

2 SIVAKUMAR

... PETITIONERS / APPELLANTS

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
MARTHANDAM POLICE STATION,
KANYAKUMARI DISTRICT.
(CRIME NO.447/2013)

... RESPONDENT / 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 Sessions Court, Kuzhithurai, made in SC No.198/2013 by his Judgment dated 23/6/2022, pending the disposal of the main Criminal Appeal on the file of this Honble court.

Prayer in Crl.A.(MD)No.517 of 2022:

To call for the records in the judgment of the Sessions Court, Kuzhithurai, made in S.C.No.198 of 2013 dated 23.06.2022 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.ALAGU SUNDAR, Advocate for the petitioner and of MR.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in S.C.No.198 of 2013, dated 23.06.2022, on the file of the learned Sessions Judge, Kuzhithurai, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the petitioners had damaged the Government bus by pelting stone and caused damage to the

<https://www.mca.gov.in/Reqs.17,638.84/->.



3. On the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.447 of 2013.

4. The respondent police, after completing the investigation, has laid a final report for the offence under Section 3(1) of TNPPDL Act.

5. During the trial, the prosecution has examined 7 witnesses as P.W.1 to P.W.7, exhibited 7 documents as Ex.P.1 to Ex.P.7 and marked 1 material object as M.O.1. The defence have adduced neither oral nor documentary evidence.

6. The learned Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, has passed the impugned judgment dated 23.06.2022 convicting the petitioners/accused 1 and 2 for the offence under Section 3(1) of TNPPDL Act and sentenced them to undergo two years Rigorous Imprisonment and to pay a fine of Rs.10,000/- each, in default, to undergo six months Simple Imprisonment. The Trial Court has suspended the sentence imposed on the petitioners in Crl.M.P.No.267 of 2022 till preferring the appeal. Challenging the above said conviction and sentence, the petitioners have preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

7. The learned counsel for the petitioners 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 petitioners have already paid fine amount.

8. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioners 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 petitioners 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 petitioners herein is entitled to the relief of grant of suspension of sentence.



11. Accordingly, the relief of suspension of sentence is granted to the petitioners on the following conditions:-

(i) The petitioners shall 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 Sessions Court, 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 petitioners shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal 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 their absence, as directed by the trial Court.

sd/-

23/08/2022

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/08/2022

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

TO

1 THE JUDGE,
SESSIONS COURT, KUZHITHURAI.

2 THE INSPECTOR OF POLICE
MARTHANDAM POLICE STATION, KANYAKUMARI DISTRICT.

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

ORDER

IN

CrI.M.P (MD) No.9847 of 2022
in

CrI.A. (MD) No.517 of 2022

Date : 23/08/2022

CSM

MK/VR/SAR.IV/24.08.2022/2P/4C

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