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CRL MP(MD) N



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

Monday, the Twenty Eighth day of November Two Thousand and Twenty
Two

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH

and

The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD) No.10566 of 2022

IN

CRL A(MD) No.541 of 2022

KAMARAJ

... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

State Rep.by
THE INSPECTOR OF POLICE
MAMSA PURAM POLICE STATION,
SRIVILLIPUTHUR, VIRUDHUNAGAR DISTRICT.
CRIME NO.299 OF 2009

... 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 on the Petitioner / Appellant / Sole Accused in S.C No. 61 of 2010 dated 24.10.2019 on the file of the Learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur and enlarge the petitioner on bail pending disposal of the appeal.

Prayer in CRL A(MD).541/2022 :

To call for the records and set aside the order of conviction and sentence passed in S.C.No.61 of 2010 dated 24.10.2019 on the file of the Learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur and allow this appeal and acquit the Appellant/Accused from the charges leveled against 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.YASMIN BEGUM.P, Advocate for the petitioner and of MR.ANTONY S.PRABHAKAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by N. ANAND VENKATESH, J.)

This petition has been filed by the sole accused seeking for suspension of sentence imposed on the petitioner, by judgment and order dated 24.10.2019 passed in S.C.No.61 of 2010 on the file of the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur and to enlarge the petitioner on bail pending disposal of the above appeal.

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



2.The petitioner was convicted for the offence under Section 302 of IPC and was sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/- and in default, to undergo one year simple imprisonment.

3.The case of the prosecution is that two years prior to the occurrence, there was a quarrel between the brother of the accused and the defacto complainant / PW1 on the ground that the brother of the accused teased the sister of PW1. In view of the same, there was enmity between the parties. On 23.08.2009, at about 10.00 p.m., in front of Sivanthipatti Nadar School, there was a quarrel between the accused and the deceased and the deceased was pushed down and the accused attacked him with a stone on his face. The deceased succumbed to the injury.

4.Heard the learned Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police.

5.The prosecution relied upon the eye-witness account of P.Ws.1 to 3. PW2 in his evidence, has deposed that he did not witness the occurrence and he heard about the occurrence from others. The presence of PW3 (Senthamizh Pandian) was not spoken either by PW1 or PW2. Therefore, the very presence of PW3 in the scene of occurrence has been questioned.

6.Insofar as PW1 is concerned, PW3 has stated that he saw PW1 running to the spot after the incident. PW1 is the brother of the deceased and hence, the evidence of this witness has also been doubted on the ground that he is an interested witness.

7.In the considered view of this Court, a prima facie case has been made out and it was brought to the notice of this Court that there are no previous cases against the petitioner and that the petitioner has already suffered incarceration for nearly three years. It will also take some more time for this Court to take up the appeal for hearing on merits. In view of the same, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.61 of 2010 dated 24.10.2019 subject to the following conditions:-

- (i) The petitioner shall pay the fine amount of Rs.10,000/- as imposed by the Court below;
- (ii) The petitioner shall execute bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Srivilliputhur;



(iii) The sureties shall affix their photographs and Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar cards or Bank pass Books to ensure their identity; and

(iv) The petitioner shall appear before the respondent police every Monday at 10.30 a.m., for a period of 8 weeks. After completion of the period reporting before the respondent police, the petitioner shall report before the learned Judicial Magistrate No.II, Srivilliputhur, on the first working day of every month at 10.30 a.m. until the disposal of the appeal 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 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/-

28/11/2022

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30/11/2022

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

TO

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

2 THE JUDICIAL MAGISTRATE NO.II, SRIVILLIPUTHUR.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

4 THE INSPECTOR OF POLICE, MAMSAPURAM POLICE STATION,
SRIVILLIPUTHUR, VIRUDHUNAGAR DISTRICT.

5 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.P.YASMIN BEGUM, Advocate (SR-13878[I] dated 29/11/2022)

ORDER IN

CRL MP(MD) No.10566 of 2022

IN CRL A(MD) No.541 of 2022

Date :28/11/2022

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