



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

Monday, the Third day of January Two Thousand and Twenty Two

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.9314 of 2021
in
CRL RC(MD) No.801 of 2021

VISHWANATHAN

... PETITIONER/PETITIONER

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
KEERAMANGALAM POLICE STATION,
PUDUKKOTTAI DISTRICT.
(CR.NO. 34/2013)

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass order to suspend the sentence order passed in Crl.A.No.33 of 2019 on the file of Learned Principal District and Sessions Court, Pudukkottai dt 06.03.2020 confirming the order passed in C.C.No.92 of 2013 by the Learned District Munsif cum Judicial Magistrate Court, Aalangudi dated 05.04.2019 and to set aside the sentence as well the penalty imposed on the petitioner and thus render justice.

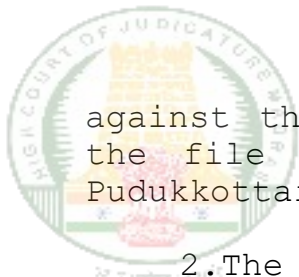
Prayer in CRL RC(MD) . 801/ 2021 :

To Call for the records set aside the order passed in Crl.A No.33/2019 on the file of Learned Principal District and Sessions Court, Pudukkottai dt 06.03.2020 confirming the order passed in C.C.No.92/2013 by the Learned District Munsif cum Judicial Magistrate Court, Aalangudi dated 05.04.2019 and set aside the sentence as well the penalty imposed on the petitioner and pass such further or other ordeers as this Hon'ble court may deem fit and proper in the circumstances of the case and thus render justice.

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.HEROLD SINGH S.C, Advocate for the petitioner and of MR.R.SURESH KUMAR, GOVERNMENT ADVOCATE on behalf of the Respondent the court made the following order:-

This petition has been filed to suspend the sentence imposed

<https://hcservices.ecourts.gov.in/hcservices/>

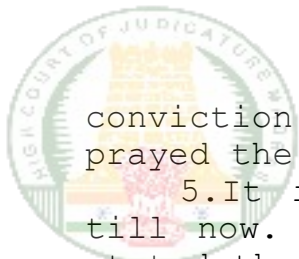


against the petitioner in C.A.No.33 of 2019, dated 06.03.2020, on the file of the learned Principal District and Sessions Judge, Pudukkottai, pending disposal of the revision.

2.The case against the petitioner is that on 14.03.2013, at about 14.30 hours, when the complainant was trying to cut the branch of a tree, the petitioner scolded him in filthy language and assaulted him with iron rod and caused injuries on both the legs, head and right hand and criminally intimidated the complainant. A case in Crime No.34 of 2013 was registered by the respondent police under Sections 294(b), 324 and 506(ii) of IPC and later the same was altered into Sections 294(b), 326 and 506(ii) of IPC. The case was taken on file as C.C.No.92 of 2013 on the file of the District Munsif cum Judicial Magistrate, Alangudi. The learned trial Judge found the petitioner guilty under Sections 294(b) and 326 of IPC and sentenced him to pay a fine of Rs.400/-, in default, to undergo a further period of one week simple imprisonment under Section 294(b) of IPC and sentenced him to undergo six months rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo a further period of two weeks simple imprisonment under Section 326 of IPC. Against the conviction and sentence, the petitioner filed an appeal in C.A.No.33 of 2019 before the Principal District and Sessions Judge, Pudukkottai and the same was dismissed by the appellate Court. Against which, the petitioner has filed a revision before this Court in Crl.R.C.(MD)No.801 of 2021. Along with the revision, the petitioner has filed the present application for suspension of sentence pending disposal of the said revision.

3.On the side of the petitioner, it is stated that the prosecution witness did not support the case of prosecution. P.W.2 is the daughter-in-law of P.W.1. P.W.3 is the son of P.W.1 and P.W.4 is the employee of P.W.1. All of them are interested witnesses. In the cross examination of P.W.1, it is stated that P.W.2 and P.W.3 were not available in the place of occurrence. The evidence of P.W.1 and P.W.2 and P.W.3 contradict each other. P.W.4 has admitted that he did not accompany the injured to the hospital. It is clear that P.W.4 is not an eye witness. The seizure of the material objects was not proved. There is civil dispute between the petitioner and the complainant. The complainant tried to climb the tree and to assault the petitioner, who was cutting the branches of the tree, the complainant fell down and was injured. The complainant using the injuries, lodged a false complaint against the petitioner and there are much more points for consideration in the revision and prayed the sentence to be suspended.

4.On the side of the prosecution, it is stated that only due to a land dispute, the petitioner attacked the complainant and caused him grievous injuries. The prosecution has examined 10 witnesses and marked 8 documents and one material object and proved the case beyond all reasonable doubts. Only after considering the evidence on



conviction was also confirmed by the first appellate Court and prayed the petition to be dismissed.

5.It is seen that the petitioner was not in judicial custody till now. In the suspension of sentence petition, it is clearly stated that the petitioner is not in jail. The exemption petition was not filed by the petitioner. Hence, the petitioner is directed to surrender before the trial Court and then to approach this Court.

6.Considering the above facts and circumstances of the case, this Court is not inclined to grant the relief of suspension of sentence to the petitioner at the present stage. With the above direction, this petition is disposed of.

sd/-

03/01/2022

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

TO

1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
PUDUKKOTTAI.

2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
AALANGUDI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
PUDUKKOTTAI.

4 THE INSPECTOR OF POLICE
KEERAMANGALAM POLICE STATION,
PUDUKKOTTAI DISTRICT.

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

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-11[I] dated
04/01/2022)

ORDER IN
CRL MP(MD) No.9314 of 2021
IN
CRL RC(MD) No.801 of 2021
Date :03/01/2022