



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

Friday, the Twenty Third day of September Two Thousand and Twenty
Two

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.11485 of 2022

IN

CRL RC(MD) No.928 of 2022

XAVIER (a) XAVIER SABARIYAN

... PETITIONER/PETITIONER

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
VACHAKARAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CRIME NO.96/2009.

... RESPONDENT/RESPONDENT

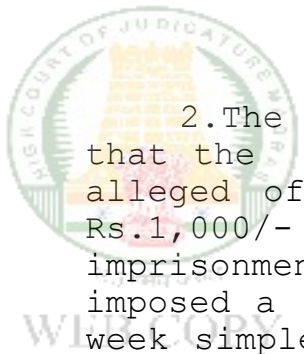
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed by the court of the Additional District and Sessions Judge, Virudhunagar in Crl A No. 25/2022 dated 08.08.2022 in confirming the conviction and sentence impose by the Judicial magistrate Court No.I, Virudhunagar in C.C.No.128/2010 dated 22.07.2019 pending disposal of the Criminal Revision Petition.

Prayer in CRL RC(MD). 928/ 2022 :

To call for the records and aside the conviction and sentence imposed by the court of Additional District and Sessions Judge, Virudhunagar in Crl A.No. 25/2019 on 08.08.2022 in confirming the conviction and sentence imposed by the Judicial Magistrate Court No.1, Virudhunagar in C.C.No.128/2010 on 22.07.2019 and allow this Criminal Revision Petition.

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.JOTHI BASU.M, Advocate for the petitioner and of MR.RMS.SETHURAMAN, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

This petition is filed to suspend the sentence imposed by the Court of the learned Additional District and Sessions Judge, Virudhunagar, in Crl.A.No.25 of 2022, dated 08.08.2022, in confirming the conviction and sentence imposed by the learned Judicial Magistrate No.I, Virudhunagar in C.C.No.128 of 2010, dated 22.07.2019, pending disposal of the Criminal Revision.



2.The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court for the alleged offence under Section 279 of IPC and imposed a fine of Rs.1,000/- in default sentenced to undergo one week simple imprisonment, for the offence under Section 337 IPC (2 counts) and imposed a fine of Rs.500 for each count, in default to undergo one week simple imprisonment, for the offence under Section 338 of IPC and imposed a fine of Rs.1,000/- in default sentenced to undergo one week simple imprisonment and also for the offence under Section 304A IPC (2 counts) and sentenced him to undergo one year simple imprisonment for each count in C.C.No.128 of 2010 by the learned Judicial Magistrate No.I, Virudhunagar. The trial Court directed to run the sentence for the offence 304(A) IPC (2 counts), consecutively. The learned Additional District and Sessions Judge, Virudhunagar partly allowed the appeal in Crl.A.No.25 of 2019 and directed to run the sentence for the offence under Section 304(A) IPC (2 counts), concurrently.

3.The learned counsel appearing for the petitioner submitted that there is some misreading of evidence before the trial Court and the Motor Vehicle Inspector Grade I, RTO, Virudhunagar, has examined the vehicle and the prosecution has not told any reason for delay in producing the vehicle before the Motor Vehicle Inspector and he also pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars.

4.Mr.RMS.Sethuraman, learned Additional Public Prosecutor appearing for State Government (Crl.side) submitted that there are enough materials available on record against the petitioner and hence he strongly opposed to grant suspension of sentence.

5.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

6.Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision and the petitioner is directed to be enlarged on bail on his executing 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 Judicial Magistrate Court No.1, Virudhunagar, and on further condition that the petitioner shall appear before the concerned Court once in a week i.e., on the first working day of every week at 10.30 a.m. pending revision.

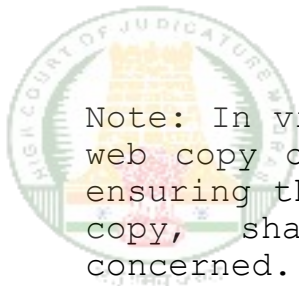
sd/-

23/09/2022

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29/09/2022

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.

WEB COPY

- TO
- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, VIRUDHUNAGAR.
 - 2 THE JUDICIAL MAGISTRATE NO.I, VIRUDHUNAGAR.
 - 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.
 - 4 THE INSPECTOR OF POLICE, VACHAKARAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP(MD) No.11485 of 2022

IN

CRL RC(MD) No.928 of 2022

Date :23/09/2022

TM

RS/SBN/SAR.1(29.09.2022) 3P-6C