



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

Wednesday, the Twenty Eighth day of September Two Thousand and
Twenty Two

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.11670 of 2022

IN

CRL RC(MD) No.945 of 2022

ABDUL RAZACK

... PETITIONER/PETITIONER

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
MELAPALAYAM POLICE STATION,
TIRUNELVELI.
(CRIME NO.265/2016).

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to grant an order of suspend the sentence imposed by the judgment dt.12/7/2022 passed in CA No.21/2021 on the file of the III Additional District and Sessions Court,Tirunelveli modifying the judgment dt.4/2/2021 passed in CC No.229/2018 on Judicial Magistrate Court No.V, Tirunelveli pending disposal of Crl.R.C.

Prayer in CRL RC(MD) . 945/ 2022 :

C-45R. To call for the records and set aside the judgment dt.12/7/2022 passed in C.A.No.21/2021 on the file of III additional District and Sessions Court,Tirunelveli modifying the judgment dt.4/2/2021 passed in CC No.229/2018 on the Judicial Magistrate No.V, Tirunelveli.

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.VASHIK ALI S, Advocate for the petitioner and of Mr.RMS.SETHURAMAN, Additional Public Prosecutor on behalf of the Respondent, While admitting the Crl.R.C., the court made the following order:-

This petition is filed to suspend the sentence imposed by the Court of the learned III Additional District and Sessions Judge, Tirunelveli, in Crl.A.No.21 of 2021, dated 12.07.2022, in modigying the conviction and sentence imposed by the learned Judicial



Magistrate No.V, Tirunelveli, in C.C.No.229 of 2018 dated 04.02.2021, 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 325 of IPC and sentenced him to undergo one year simple imprisonment and also imposed a fine of Rs.5,000/- in default sentenced to undergo two months simple imprisonment. The learned III Additional District and Sessions Judge, Tirunelveli partly allowed the appeal in Crl.A.No.25 of 2019 and modified the sentence into six months simple imprisonment.

3.The learned counsel appearing for the petitioner submitted that the alleged occurrence done by the petitioner only by wooden log, but even as per FIR, it was stated as stick, that was not properly taken into account by the Courts below 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 III Additional District and Sessions Judge, Tirunelveli 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/-

28/09/2022

/ TRUE COPY /

13/10/2022

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



TO

1 THE III ADDITIONAL DISTRICT & SESSIONS JUDGE,
TIRUNELVELI.

2 THE JUDICIAL MAGISTRATE NO.V,
TIRUNELVELI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

4 THE INSPECTOR OF POLICE
MELAPALAYAM POLICE STATION,
TIRUNELVELI.

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

+1. C.C. to M/S.VASHIK ALI S Advocate SR.No.10637

ORDER

IN

CRL MP(MD) No.11670 of 2022

IN

CRL RC(MD) No.945 of 2022

Date :28/09/2022

TM

SA/PN/SAR.2/13.10.2022/3P/7C