



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

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

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.11700 of 2022

IN

CRL A(MD) No.593 2022

DURAI @ DARWIN

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
PUDUKADAI POLICE STATION,
KANYAKUMARI DISTRICT.
CRIME NO.15 OF 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 Suspend the Sentence imposed in SC.No.135 of 2013 dt.2.9.2022 on the files of Learned Additional District cum Session Judge, Kuzhithurai and enlarge the Petitioner on bail pending disposal of this Criminal Appeal.

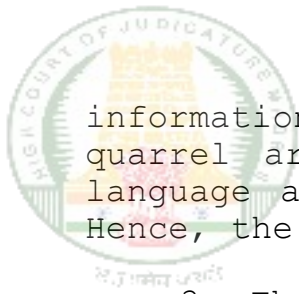
Prayer in Crl.A(MD).593/2022:

Pleased to call for the records and to set aside the judgment of conviction dated 02.09.2022 made in S.C.No.135 of 2013 on the file of Learned Additional District cum Sessions Judge, Kuzhithurai.

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.S.MANIKANDAN, Government Advocate(crl.side) on behalf of the Respondent, While admitting the CRL.A., the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in S.C.No.135 of 2013, dated 02.09.2022, on the file of the learned Additional District Cum Sessions Judge, Kuzhithurai, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the petitioner went to the defacto complainant office, who is working as Office Assistant at Pudukadai Panchayat and questioned about the delay in issuing the



information under Right to information Act. Thereafter, a quarrel arose between them, the petitioner abused him in filthy language and also damaged the plastic tray, telephone and chairs. Hence, the complaint.

3. The respondent police, after completing the investigation, has filed the final report and after committal, the case was taken on file in S.C.No.135 of 2013 on the file of the Additional District Cum Sessions Judge, Kuzhithurai.

4. The learned Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, has passed the impugned judgment dated 02.09.2022 convicting the petitioner/accused for the offence under Sections 294(b), 353, 506 (i) of IPC and 3(1) of TNPPDL Act, as under:-

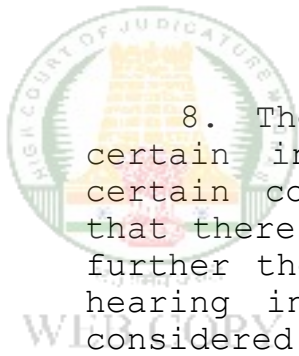
Sl.No	Sections	Punishment	Fine	Default
1.	Under Section 294(b) of IPC	-	Rs.1,000/-	One month Rigorous imprisonment
2.	Under Section 353 IPC	two years Rigorous Imprisonment	Rs.5,000/-	-
3.	Under Section 506(i) IPC	One year Rigorous Imprisonment	Rs.5,000/-	-
4.	Under Section 3(1) TNPPDL Act	two years Rigorous Imprisonment	Rs.10,000/-	-

Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5. The learned counsel for the petitioner 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.

6. The learned Government Advocate(Crl.Side) appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

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



8. The learned counsel for the petitioner pointed at 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 petitioner herein is entitled to the relief of grant of suspension of sentence.

9. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail, on condition that the petitioner shall execute 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 Additional District Cum Sessions Judge, Kuzhithurai, and on further condition that the petitioner shall appear before the said Court at 10.30 a.m. on the first working day of every English Calendar month, pending disposal of the appeal.

sd/-

30/09/2022

/ TRUE COPY /

13/10/2022

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

TO

1 THE ADDITIONAL DISTRICT CUM SESSIONS JUDGE, KUZHITHURAI.

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

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

+1. C.C. to M/S.HEROLD SINGH S.C. Advocate SR.No.10898

ORDER

IN

CRL MP(MD) No.11700 of 2022
IN

CRL A(MD) No.593 2022

Date :30/09/2022

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SA/VR/SAR. /13.10.2022/3P/5C