



WEB COPY

CRL MP(MD) A



22

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

Tuesday, the 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.11645 of 2022

IN

CRL A(MD) No.431 of 2022

VEERAPANDI @ KARTHICK

... APPELLANT/ACCUSED NO.2

Vs

State Rep.by
THE INSPECTOR OF POLICE
S.S.KOTTAI POLICE STATION,
SIVAGANGAI DISTRICT.
(IN CRIME NO.123/2012)

... 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 against me and release the petitioner on bail pending disposal of the main Criminal Appeal before this Hon'ble Court against the Judgment of the Honble Additional District and Sessions Judge, Additional District Court, Sivagangai in SC No.57 of 2013 dated 30.03.2022.

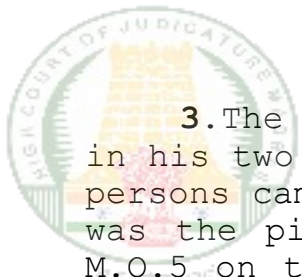
Prayer in CRL A(MD).431/2022 :

To call for the entire records connected with the judgment rendered the Hon'ble Additional District and Sessions Judge, Additional District Court, Sivagangai in S.C.No.57 of 2013 dated 30.03.2022 and set aside the same and consequently acquit the appellant.

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.PRAKASH.R, Advocate for the petitioner and of MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This petition has been filed by the petitioner/A2 seeking for suspension of sentence.

2.The Court below has convicted the petitioner/appellant for offence under Section 392 IPC and sentenced him to undergo Rigorous Imprisonment for a period of ten years and to pay a fine of Rs.10,000/-, in default, to undergo one year Simple Imprisonment.



3.The case of the prosecution is that the deceased was riding in his two wheeler on 05.12.2012 at about 1.30 p.m., and the accused persons came from behind and the two wheeler was driven by A2 and A1 was the pillion rider. A1 is said to have inflicted a blow with M.O.5 on the backside head and on the face of the deceased due to which the deceased fall down from the two wheeler. Thereafter, A1 is said to have robbed the hand chain and also the mobile phone from the deceased and A2/petitioner is said to have robbed the neck chain. The deceased ultimately succumbed to injuries.

4.The learned counsel for the petitioner submitted that the petitioner was convicted and sentenced by the Court below only based on the so called recovery of the neck chain which is said to have been robbed by the petitioner. The learned counsel for the petitioner submitted that the incident took place in the year 2012 and the trial was conducted in the year 2020 and the investigation officer did not even conduct the Test Identification Parade to identify the accused persons, who are actually involved in this case. According to the learned counsel for the petitioner, the petitioner has been falsely roped in this case.

5.Per contra, the learned Additional Public Prosecutor submitted that the recovery of the neck chain, which was identified and marked as M.O.2 was based on the admissible portion of the confession given by A2/petitioner and based on the same, it was recovered from the Sriram City Union Finance and the same has been spoken by P.W-13. The signature of the petitioner/A2 was also identified and he had signed over the stamp at the time when the jewel was pledged. The learned Additional Public Prosecutor also placed reliance upon the evidence of P.W-9, who stood as witness at the time of recovery.

6.The learned Additional Public Prosecutor objected the suspension of sentence petition mainly on the ground that the petitioner already had two previous cases for offence under Section 392 IPC for theft of motor bike in Crime Nos.3/2012 and 118/2011. That apart the appellant absconded for nearly 11 months even during the course of trial and ultimately, the appellant was secured after a non bailable warrant was issued. Hence, considering the antecedents of the appellant and also the fact that the appellant has a propensity to abscond, the learned Additional Public Prosecutor vehemently opposed this petition.

7.In the considered view of this Court, even before dealing with the merits of the case as projected by the learned counsel for the petitioner/appellant, while considering the petition seeking for suspension of sentence, this Court must be satisfied with the antecedents of the petitioner/appellant and also ensure that the petitioner/appellant will be ultimately available when the criminal appeal is taken up for final hearing and disposed off. Considering



the previous antecedents of the petitioner/appellant, this is apprehensive of letting out the appellant on bail at this stage.

8. In the light of the above discussion, this Cr.M.P(MD) No.11645 of 2022 stands dismissed.

9. There shall be a direction to the Registry to prepare the typeset of papers and add this criminal appeal in the weekly list and once the typeset is made ready, the appeal itself can be taken up for final hearing.

sd/-

08/11/2022

/ TRUE COPY /

/11/2022

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

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
ADDITIONAL DISTRICT COURT, SIVAGANGAI.

2 THE INSPECTOR OF POLICE, S.S.KOTTAI POLICE STATION,
SIVAGANGAI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

COPY TO

THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL MP(MD) No.11645 of 2022

IN

CRL A(MD) No.431 of 2022

Date : 08/11/2022

PJL

RS/TR/SAR.2 (16.11.2022) 3P-6C