



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Fourth day of November Two Thousand and Twenty Two

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.13242 of 2022

IN

CRL RC(MD) No.1048 of 2022

1 VADIVEL
2 AYYAPPAN
3 KABILRAJ @ KAVINRAJ @ SHUBU
4 KINGSLY @ SHIVAKUMAR

... PETITIONERS/PETITIONERS

Vs

State Rep.by
THE SUB INSPECTOR OF POLICE
PUDUKKADAI POLICE STATION,
KANNIYAKUMARI DISTRICT.
CRIME NO.529 OF 2011

... 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 Learned Judicial Magistrate No.II, Kuzhithurai in C.C No.36 of 2012 dated 15.12.2018 confirmed by Learned Additional District and Sessions Court, Kuzhithurai in Crl.A No.8 of 2019 dated 12.09.2022 till the disposal of revision petition.

Prayer in CRL RC(MD).1048/2022 :

To call for records relating to the Judgment passed by Learned Additional District and Sessions Court, Kuzhithurai in Crl.A.No.8 of 2019 dated 12.09.2022 confirming the conviction judgment passed by Learned Judicial Magistrate No.II, Kuzhithurai in C.C.No.36 of 2012 dated 15.12.2018 and set aside the same and may acquit the petitioners.

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.NARAYANAKUMAR K.P., Advocate for the petitioners and of MR.SS.MADHAVAN, Government Advocate (Crl.Side) 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, Kuzhithurai, in Crl.A.No.08 of 2019, dated 12.09.2022, in confirming the conviction and sentence imposed by the learned Judicial Magistrate No.II, Kuzhithurai in C.C.No.36 of 2012, dated 15.12.2018, pending disposal of the Criminal Revision.

2.The learned counsel appearing for the petitioners submitted that the petitioners have been convicted and sentenced by the trial Court as follows:

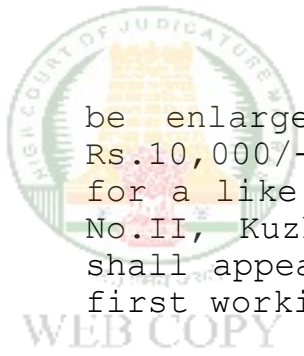
The trial Court convicted the petitioners 1 to 4 for the offence under Section 341 of IPC and imposed sentence to pay a fine of Rs.500/- each, in default to undergo simple imprisonment for one month respectively. Convicted the petitioners 1 to 4 for offence under Section 294(b) of IPC and imposed sentence to pay a fine of Rs.1,000/- each, in default to undergo one month simple imprisonment respectively. Petitioners one and three were convicted under section 324 of IPC and sentenced to undergo simple imprisonment for six months respectively and to pay a fine of Rs.2,000/- each, in default to undergo simple imprisonment for three months respectively. Petitioners 2 and 4 were convicted under Section 323 of IPC and sentenced to pay a fine of Rs.1,000/- each, in default to undergo simple imprisonment for one month respectively. Petitioners 1 to 4 were convicted under Section 506(ii) of IPC and sentenced to undergo rigorous imprisonment for one year respectively and to pay a fine of Rs.2,000/- each, in default to undergo simple imprisonment for three months respectively. The sentences were ordered to run concurrently and set off under Section 428 Cr.P.C. was also ordered.

3.The learned counsel appearing for the petitioners submitted that PW2 and PW3 were proceeded in the road at the time of occurrence and they deposed contrary to the evidence of PW1. Only believing the words of PW2 and PW3, who are stated to be the eye witnesses, the conviction has been passed. The same was also confirmed in the appeal and he also pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars.

4.Mr.S.S.Madhavan, learned Government Advocate (Crl. Side) appearing for State Government submitted that there are enough materials available on record against the petitioners 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 petitioners are directed to



be enlarged on bail on their executing a bond for a of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the Judicial Magistrate Court No.II, Kuzhithurai, and on further condition that the petitioners 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/-

04/11/2022

/ TRUE COPY /

08/11/2022

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.

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, KUZHITHURAI.

2 THE JUDICIAL MAGISTRATE NO.II, KUZHITHURAI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

4 THE SUB INSPECTOR OF POLICE, PUDUKKADAI POLICE STATION,
KANNIYAKUMARI DISTRICT.

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

+1 CC to M/s.K.P.NARAYANA KUMAR, Advocate (SR-12432[I] dated 04/11/2022)

ORDER

IN

CRL MP(MD) No.13242 of 2022

IN

CRL RC(MD) No.1048 of 2022

Date :04/11/2022

TM

RS/VR/SAR.(08.11.2022) 3P-7C