



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

Friday, the Twenty Third day of December Two Thousand and
Twenty Two
PRESENT

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The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.16378 of 2022
IN
CRL RC (MD)No.1284 of 2022

1 GOPI
2 BINU
3 SANTHOSH
4 AJI

... PETITIONERS/PETITIONERS

Vs

THE STATE REP.BY
THE SUB INSPECTOR OF POLICE
KOLLAMCODE POLICE STATION,
KANNYAKUMARI DISTRICT.
CRIME NO.186 OF 2002.

... RESPONDENT/RESPONDENT

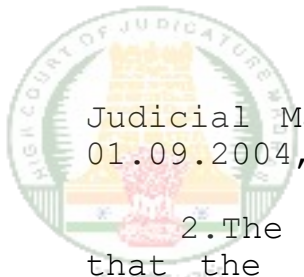
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Sentence imposed by Learned Judicial Magistrate No.II, Kuzhithurai in CC.No.3 of 2003 dt.1.9.2004 confirmed by Learned Additional District and Sessions Court, Kuzhithurai in Crl.A.No.198 of 2004 dt.22.8.2022 till the disposal of revision Petition.

Prayer in CRL RC(MD) . 1284/ 2022 :

To call for records relating to the Judgment passed by Learned Additional District and Sessions Court, Kuzhithurai in Crl.A.No.198 of 2004 dt.22.8.2022 confirming the conviction judgment passed by the Learned Judicial Magistrate No.II, Kuzhithurai in C.C.No.3 of 2003 dated 01.09.2004 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 petitioner and of Mr.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent, While admitting the CRL.RC., 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.198 of 2004, dated 22.08.2022, in confirming the conviction and sentence imposed by the learned



Judicial Magistrate No.II, Kuzhithurai in C.C.No.3 of 2001 dated 01.09.2004, pending disposal of the Criminal Revision.

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

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First Petitioner:

- a)Convicted under Section 147 IPC and sentenced to pay a fine of Rs.100/- in default to undergo simple imprisonment for one week.
- b)Convicted under Section 323 IPC and sentenced to undergo Rigorous Imprisonment for 3 months and to pay fine of Rs.1,000/- in default to undergo simple imprisonment for one month.

Second Petitioner:

- a)Convicted under Section 148 IPC and sentenced to undergo rigorous imprisonment for one week.
- b)Convicted under Section 326 IPC and sentenced to undergo rigorous imprisonment for two years.
- c)He is ordered to pay a compensation of Rs.25,000/- to the PW2 under Section 357(3) Cr.P.C.

Third Petitioner:

- a)Convicted under Section 147 IPC and sentenced to pay a fine of Rs.100/- in default to undergo simple imprisonment for one week.
- b)Convicted under Section 323 IPC and sentenced to undergo rigorous imprisonment for 3 months and to pay a fine of Rs.1,000/- in default to undergo Simple Imprisonment for one month.

Fourth Petitioner:

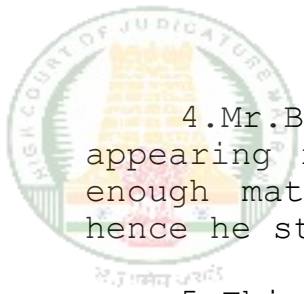
- a)Convicted under Section 147 IPC and sentenced to pay a fine of Rs.100/- in default undergo Rigorous Imprisonment for one week.
- b)Convicted under Section 323 IPC and sentenced to undergo rigorous imprisonment for 3 months and to pay a fine of Rs.1000/- in default to undergo SI for one month.

Fifth Petitioner:

- a)Convicted under Section 147 IPC and sentenced to pay a fine of Rs.100/- in default to undergo R.I for one week.

The appellate Court has dismissed the appeal and confirmed the conviction and sentence.

3.The learned counsel appearing for the petitioners submitted that there is some delay of 5 days in despatching the original FIR to the Court and apart from that there is no independent eye witnesses in this case. The eye witnesses are only relatives of the PW1 and he also pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars.



4.Mr.B.Nambiselvan, learned Additional Public Prosecutor appearing for State Government (Crl.side) 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 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.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/-

23/12/2022

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/01/2023

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

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TO

1 THE JUDICIAL MAGISTRATE NO.II, KUZHITHURAI.

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

3 THE ADDITIONAL DISTRICT & SESSIONS JUDGE, KUZHITHURAI.

4 THE SUB INSPECTOR OF POLICE
KOLLAMCODE POLICE STATION, KANNYAKUMARI DISTRICT.

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

+1. C.C. to M/S.NARAYANAKUMAR K.P. Advocate SR.No.15471 (I)
Date:23/12/2022.

ORDER IN

CRL MP(MD) No.16378 of 2022
IN

CRL RC (MD)No.1284 of 2022

Date :23/12/2022

SA/MMS/SAR.3/04.01.2023/3P/7C