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Crl.M.P.No.6660 of 2023 in Crl.R.C.No.862 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.M.P.No.6660 of 2023
in
Crl.R.C.No.862 of 2023

R.Kotteeswaran

...Petitioner

Vs.

State by its
Inspector of Police,
M-3 Kovil Palayam Police Station,
Coimbatore Dt.
(Crime No.81 of 2014)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 397 (1) of Criminal Procedure Code, praying to suspend the sentence of imprisonment made in judgement dated 16.06.2020 passed in C.A.No.68 of 2020 by the First Additional District and Sessions Court, Coimbatore, partly confirming the judgement dated 04.01.2020 passed in C.C.No.703 of 2014 of the Judicial Magistrate No.II, Coimbatore, pending disposal of the above Criminal Revision Case.



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For Petitioner : Mr.C.D.Sugumar
For Respondent : Mr.V.Meganathan,
Govt. Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence of imprisonment imposed in judgement dated 16.06.2020 passed in C.A.No.68 of 2020 by the learned First Additional District and Sessions Court, Coimbatore, partly confirming the judgement dated 04.01.2020 passed in C.C.No.703 of 2014 by the learned Judicial Magistrate No.II, Coimbatore, and enlarge the petitioner on bail pending disposal of the above criminal revision case.

2. The petitioner herein is arrayed as accused in C.C.No.703 of 2014 on the file of the learned Judicial Magistrate No.II, Coimbatore. He was convicted of the offence under Section 279 and 304(A) I.P.C. and was sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one week simple imprisonment.



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Aggrieved over the same, the petitioner had filed the present criminal appeal in C.A.No. 68 of 2020 before the learned I Addl. District and Sessions Court, Coimbatore and the learned appellate Judge partly allowed the appeal and reduced the sentence of imprisonment from one year rigorous imprisonment to six months simple imprisonment. Now, challenging the findings of appellate judge, the present Criminal Revision Case has been filed.

3. The case of the prosecution is that on 14.04.2014 around 20.15 hours, when the deceased crossing the road from Eastern side to Western side, the petitioner driven the bus rash and negligently from the southern side to northern side, dashed against him, in which he died on the spot, thereby the petitioner committed the offence punishable under Sec.279 and 304(A) I.P.C.

4. According to the learned counsel for the petitioner, there are arguable points available in the Criminal Revision Case and the petitioner has got a fair chance of succeeding in the Criminal Revision.



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He would further submit that both the courts below failed to appreciate the cross-examination of P.W.1 and P.W.2, who are stock witnesses of the police and there are numerous contradiction in their evidence. He would also submit that both the courts below also failed to consider the evidence of P.W.3, who in his evidence stated that he signed without knowing the contents of the same. Furthermore, the place of occurrence was also not at all established through P.W.3. Hence, he prayed to suspend the substantive sentence imposed against the Petitioner.

5. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent/State raised serious objection for allowing this petition. Further, he would contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him, interference of this Court is not necessary in the findings arrived at by the both the trial court and appellate court.



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6. Heard the learned counsel appearing on either side and also perused the materials placed on record.

7. Considering the facts and circumstances of the case, also considering the submissions of the learned counsel for the petitioner and the learned Government Advocate (crl. side) appearing for the respondent police, further this Criminal Revision is not likely to be taken for final hearing in the near future, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Revision Petition, the reliefs of suspension of sentence and bail are granted on the following conditions:

(a) The petitioner is ordered to be released on bail, on his executing a bond **for a sum of Rs.10,000/- (Rupees Ten Thousand only) (each)** with two sureties each for a like sum to the satisfaction of the learned 1st Addl. District and Sessions Judge, Coimbatore.

(b) The petitioner and the sureties shall affix their photographs and Left Thumb



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Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioner shall appear before the Trial Court once in a month at 10.30 a.m., until the disposal of the criminal revision and if he is not able to appear before the trial Court, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

8. With the above directions, this Criminal Miscellaneous Petition is ordered.

05.05.2023

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To

- 1.The 1st Addl. District and Sessions Judge,
Coimbatore.
- 2.The Inspector of Police,
M-3 Kovil Palayam Police Station,
Coimbatore.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai
4. Central Prison, Coimbatore.



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G.K.ILANTHIRAIYAN, J.

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