



Crl.O.P.No.32066 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.32066 of 2022

Sidhar @ Gnanasekar

...

Petitioner

Vs.

State by

The Inspector of Police,

Pollachi Town Police Station,

Pollachi, Coimbatore District.

...

Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order passed by the Principal District & Sessions Judge, Coimbatore District in Crl.M.P.No.5745 of 2022 in C.A.No.131/2022 dated 23.11.2022.

For Petitioner : Mr.R.Thamarai Selvan

For Respondent : Mr.S.Santhosh
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition is filed to set aside the order passed by the Principal District & Sessions Judge, Coimbatore, in Crl.M.P.No.5745 of 2022 in C.A.No.131 of 2022, dated 23.11.2022.



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2.The learned counsel for the petitioner submitted that the petitioner along with the co-accused were convicted and sentenced to undergo seven years of rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for a period of three months for the offence under Section 307 IPC. Both accused moved Crl.M.P.No.5745 of 2022 before the Principal District & Sessions Court, Coimbatore, for suspension of sentence till the disposal of appeal. While granting suspension of sentence to the second accused, petitioner's prayer was dismissed. Therefore this petition.

3.The learned Government Advocate (Crl.Side) submitted that the petitioner had involved in causing seven stab injuries to the victim (PW7). Therefore, suspension of sentence petition was dismissed as against the petitioner herein.

4.Considered the rival submissions and perused the records. On going through the order passed in Crl.M.P.No.5745 of 2022, dated 23.11.2022, this Court finds that the reason for dismissal of suspension of sentence against the petitioner is that the petitioner caused seven stab injuries to the victim (PW7), whereas, the second accused was not directly involved in causing injuries.



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Therefore, the petitioner's claim was dismissed and the co-accused's claim was allowed.

5.This Court on going through the evidence of the Medical Officer (PW9) finds that it was just stated that there were two stab injuries on the right side of the chest and four stab injuries at the left side of the stomach and one stab injury on the spinal area. There is no details given as to the length, depth and width of the injuries. It is also informed by the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) that the petitioner has no previous bad antecedents. It is also seen that he was on bail throughout the trial and therefore, there is no possibility of his absconding while the Appeal is heard.

6.Taking into consideration of all these aspects, this Court is of the considered view that the petitioner's substantive sentence alone be suspended and the petitioner is ordered to be released on bail on conditions that

i) 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 learned Assistant Sessions Judge, Pollachi, within a period of two weeks from the date of receipt of a copy of this order and also;



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ii) the petitioner shall appear before the above said Court on the first working day of every English calendar month at 10.30 a.m, until further orders.

7. With the above directions, this Criminal Original Petition is allowed.

05.01.2023

sli

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

To:

1. The Assistant Sessions Judge,
Pollachi.
2. The Superintendent,
Central Prison, Coimbatore.
3. The Principal District & Sessions Judge,
Coimbatore.
4. The Inspector of Police,
Pollachi Town Police Station,
Pollachi, Coimbatore District.
5. The Public Prosecutor,
High Court of Madras.

Note: Registry is directed to issue order copy on 06.01.2023



WEB COPY



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G.CHANDRASEKHARAN, J.
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