



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

Tuesday, the Twenty Fourth day of January Two Thousand and Twenty
Three

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.953 of 2023
IN
CRL A(MD) No.65 of 2023

1 PANDI @ MADRAS PANDI ... PETITIONER NO.1/APPELLANT NO.1
/ACCUSED NO.1
2 RAMESHKANNAN ... PETITIONER NO.2/APPELLANT NO.2
/ACCUSED NO.2

Vs

State Rep.by
THE INSPECTOR OF POLICE
M.KALLUPPATTI POLICE STATION,
MADURAI DISTRICT.
CRIME NO.69 OF 2013

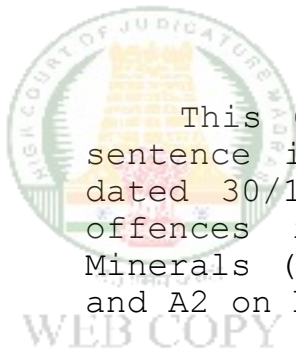
... RESPONDENT/COMPLAINANT

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 the petitioner in S.S.C No. 51 of 2021 dated 30.12.2022 and release the petitioners/Appellants/Accused No.1 and 2 on the file of the Honble Special District Judge to Deal with the Cases of Offences in Contravention of the Provisions of The Mines And Minerals (D & R) Act, 1957, Madurai and release the petitioner on bail till the disposal of the appeal.

Prayer in CRL A(MD).65/2023 :

To call for the entire records connected to the judgment in Spl.S.C.No.51 of 2021 on the file of the Hon'ble Special District Judge to Deal with The Cases of Offences in Contravention of the Provisions of The Mines And Minerals (D&R) Act, 1957, Madurai dated 30.12.2022 and set aside the conviction and sentence imposed against the appellants.

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.ALAGUMANI.R, Advocate for the petitioners and of MR.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-



This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioners in S.S.C.No.51 of 2021, dated 30/12/2022 by the Special Judge to deal with the cases of offences in contravention of the provisions of the Mines and Minerals (D & R) Act, 1957, Madurai and enlarge the petitioners/A1 and A2 on bail pending disposal of the criminal appeal.

2.The case of the prosecution is that on 19/03/2013 at 03.00 hours in the morning, the police team comprising the de-facto complainant and others were on routine check up near Kamarajar Kalyana Mandapam at M.Kallupatti. At that time, they intercepted the Tipper Lorry bearing registration No.TN-28-AA-6691. It was found carrying two units of red soil. That vehicle was driven by A2 and others namely A1, A3 and A4 were found seating in the cabin. When the vehicle was intercepted, A1 scolded the police team and created nuisance. They have also prevented from carrying out the official duty. They also instructed A2 to run over the vehicle and kill them. A2 started the vehicle forcibly and an attempt of murder also took place. But they were apprehended by chasing near Thiruvalluvar College. On the basis of the above said occurrence, the case was registered. After completing the formalities of investigation, final report was filed under sections 353, 307 r/w 109, 379 of IPC r/w 20 (1)(V) of the Mines and Minerals (Development & Regulation) Act, 1957 and it was taken on file in Special SC No.51 of 2023 by the trial court.

3.On the side of the prosecution, 10 witnesses were examined and 14 documents were marked, apart from that, 2 material objects marked. On the side of the accused, neither oral evidence nor documentary has been adduced.

4.At the conclusion of the trial, the trial court acquitted A1 from the charges under section 379 IPC and section 20(1)(V) of Mines and Minerals (Development & Regulation) Act, 1957 and found the petitioners/A1 and A2 guilty, and A1 was sentenced to undergo five years rigorous imprisonment and imposed a fine of Rs.2,000/- with default clause for the offence under section 307 r/w 109 IPC and to undergo one year rigorous imprisonment and imposed a fine of Rs.500/- with default clause for the offence under section 353 IPC; and A2 was convicted and sentenced him to undergo five years rigorous imprisonment and imposed a fine of Rs.2,000/- with default clause for the offence under section 307 IPC; and to undergo 1 year rigorous imprisonment and imposed a fine of Rs.500/- for the offence under section 353 IPC. Challenging the above said conviction and sentence, criminal appeal has been preferred before this court. Pending appeal, this miscellaneous petition has been seeking suspension of sentence.

5.Heard both sides.



6.The learned counsel appearing for the petitioners would submit that it is a case of no injury and the case has been falsely foisted.

7.But the learned Additional Public Prosecutor would submit that the accused persons were found illegally transporting the red soil; When they were intercepted, they made trouble and try to run the vehicle over the police team. So according to him, no suspension of sentence is required.

8.Whether the above said vehicle was actually carrying red soil and whether any attempt was made by the petitioners to run the vehicle over the police team is a matter for consideration in the main appeal. The main offence of illegal transportation of red soil was not proved. Whether the conviction and sentence imposed upon the petitioners under sections 307 and 353 IPC are made out or not, is a matter for consideration in the appeal. Further no bad antecedent is also reported against the petitioners and no injury was suffered by any one of the police team members.

9.Considering the above said aspect and also considering the fact that it will take time to hear the main appeal for disposal, I am inclined to enlarge the petitioners on bail, by suspending the substantive part of sentence. Accordingly, the suspension of sentence petition is **allowed** and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions:-

(i)the petitioners are directed to be enlarged on bail on condition that the petitioners 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 Judicial Magistrate No.II, Usilampatti, Madurai District; and

(ii)on further condition that the petitioners shall appear before the said Court once in a week i.e., on the first working day of every week at 10.30 am pending appeal.

sd/-

24/01/2023

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24/01/2023

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

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TO

1 THE SPECIAL DISTRICT JUDGE TO DEAL WITH THE CASES OF
OFFENCES IN CONTRAVENTION OF THE PROVISIONS OF
THE MINES AND MINERALS (D&R) ACT, 1957, MADURAI

2 THE JUDICIAL MAGISTRATE NO.II,
USILAMPATTI, MADURAI DISTRICT.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

4 THE INSPECTOR OF POLICE
M.KALLUPPATTI POLICE STATION, MADURAI DISTRICT.

5 THE SUPERINTEDENT,
CENTRAL PRISON, MADURAI DISTRICT.

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

+1 CC to M/s.R.ALAGUMANI, Advocate (SR-1063[I] dated 24/01/2023)

ORDER
IN
CRL MP(MD) No.953 of 2023
IN
CRL A(MD) No.65 of 2023
Date :24/01/2023

RS/VR/SAR.(24.01.2023) 4P-8C