



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

Friday, the Twenty Eighth day of April Two Thousand and
Twenty Three

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.4545 of 2023
IN
CRL RC(MD) No.49 of 2020

SOMASUNDARAM @ SARAVANAN

... PETITIONER/PETITIONER

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
THIRUNEELAKUDI POLICE STATION,
THANJAVUR DISTRICT.
(CRIME NO.190/2009).

... 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 of imprisonment passed by the Learned Additional District and Sessions Judge, (Fast Track Court), Kumbakonam in Crl.A.No.70/2017, judgement dt.18/12/2019 by confirming the judgement and conviction and sentence imposed the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam in S.C.No.7 of 2013, dated 05.10.2017 and enlarge the petitioner/accused on bail, pending disposal of the above said Criminal Revision Petition.

PRAYER IN CRL.RC(MD) .49/2020:

Pleased to call for the records of the Learned Additional District and Sessions Judge, (Fast Track Court) Kumbakonam in Crl.A.No.70 of 2017 dated 18.12.2019, confirming the conviction and sentence of Imprisonment passed by the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam in S.C.No.7 of 2013 dated 05.10.2017 and set-aside the Judgments and convictions of Courts below and acquit the Petitioner.

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.D.RAMESH KUMAR, Advocate for the petitioner, of Mr.R.SIVA KUMAR, Government Advocate(crl.side) on behalf of the Respondent, the court made the following order:-

Reserved on : 19.04.2023
Delivered on : 28.04.2023

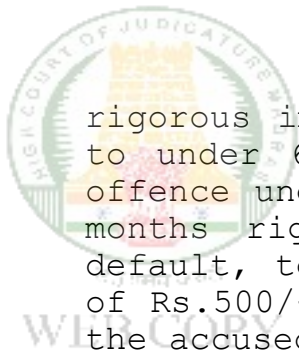
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The Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Additional District and Sessions Judge(Fast Track Court) Kumbakonam in Crl.A.No.70 of 2017, dated 18.12.2019, which was confirmed by the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam in S.C.No.7 of 2013, dated 05.10.2017 and enlarge the petitioner/accused on bail.

2. The case of the prosecution is that the petitioner/accused is the younger brother of the defacto complainant, he had retired retired Village Administrative Officer; that there existed civil disputes between them, that on 21.09.2009 at about 08.00 am, while the defacto complainant went to his agricultural field, the second accused had damaged the crops in the agricultural field; that when the same was questioned by the defacto complainant, the accused replied that the land was belonging to his paternal uncle, the petitioner herein and he will do anything; that a quarrel arose between them and consequently, the petitioner had scolded the defacto complainant with filthy language and attacked him with Aruval on his face and also attacked on his left leg and as a result of which, the defacto complainant fell down in the channel and thereafter also the second accused attacked the complainant with Aruval on his right knee and that the defacto complainant was immediately taken to Government Hospital, Kumbakonam and after first aid treatment, he was referred to Thanjavur Medical College, Hospital. On the basis of the complaint lodged, FIR came to be registered in Crime No.190 of 2009 for the offence under Sections 294(b), 307 and 506(ii) IPC, after completing the initial investigation, the case was altered into Sections 294(b) 326, 307 and 506(ii) IPC. After completing the investigation, the respondent has laid the final report and the same was taken on file in P.R.C.No.4 of 2011 and subsequently, the case was committed to the Sessions Court and the same was taken on file in S.C.No.7 of 2013 and the same was made over to the Chief Judicial Magistrate.

3. During the trial, the prosecution has examined 13 witnesses as P.W.1 to P.W.13 and exhibited 14 documents as Ex.P.1 to Ex.P.14 and marked five material objects as M.O.1 to M.O.5. The defence has adduced neither oral nor documentary evidence.

4. The learned trial Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, has passed the judgment, dated 05.10.2011, convicting the petitioner for the offence under Section 307 IPC and sentenced him to undergo 4 years



rigorous imprisonment and to pay a fine of Rs.10,000/- in default, to under 6 months simple imprisonment and convicting him for the offence under Section 294(b) IPC and sentenced him to undergo three months rigorous imprisonment and to pay a fine of Rs.500/- in default, to undergo one month simple imprisonment and to pay a fine of Rs.500/-. Aggrieved by the judgment of conviction and sentence, the accused has preferred an appeal in C.A.No.70 of 2017 and the learned Additional District and Sessions Court, Kumbakonam, upon considering the materials available and on hearing the arguments of both the sides, has passed the impugned judgment, dated 18.12.2019, dismissing the criminal appeal and thereby confirmed the judgment of conviction and sentence passed by the trial Court. Aggrieved by the dismissal of the appeal, the petitioner has preferred the present Criminal Revision along with the above Miscellaneous Petition seeking suspension of sentence.

5. It is evident from the records that at the time of filing the revision, the petitioner has filed an application for suspension of sentence in Crl.M.P.No.388 of 2020 and this Court has passed an order dated 14.02.2020, suspending the substantive sentence of imprisonment by directing the petitioner/accused to appear before the Additional District Court, Kumbakonam daily at 10.30 am and 05.00 pm pending revision.

6. When the matter was taken up for hearing on 26.09.2022, considering the submissions made by the learned counsel for the revision petitioner and the learned Government Advocate (Criminal Side), this Court directed the Registry to call for a report from the Additional District Court, Kumbakonam, regarding the compliance of the order dated 14.02.2020 and directed the trial Court to issue a warrant against the petitioner, if the aforesaid order is not complied and commit him to prison for serving the sentence. In pursuance of the directions of this Court, the learned Additional District and Sessions Judge, Kumbakoname has submitted a report stating that the petitioner has complied with the conditions till 20.03.2020 morning and thereafter, he did not appear and sign before that Court.

7. It is evident from the records that the concerned Court, in pursuance of the directions of this Court, has issued NBW and that the NBW was executed and the petitioner was arrested on 08.03.2023 and was committed to the Central Prison for serving the remaining sentence. After the committal to the Prison, the petitioner has come forward with the above application for suspension of sentence.

8. It is further evident from the records that before execution of warrant, the petitioner/accused has filed an application before the Court of Chief Judicial Magistrate not to execute the warrant against him and the learned Magistrate by specifically observing that the warrant was issued in pursuance of the directions of this Court, dismissed the petition. Subsequently, when the accused was



produced after executing the NBW before the learned Chief Judicial Magistrate, an objection was raised that Court has no power to commit the accused to Prison, since the Criminal Revision is pending before the High Court. The learned Chief Judicial Magistrate, by specifically observing that since the High Court has issued specific directions to issue NBW against the petitioner and to commit him to the Prison for serving remaining sentence, NBW was ordered to be issued, rejected the contention put forth by the petitioner's side and committed him to Central Prison, Trichy.

9. As already pointed out, the petitioner has complied with the conditions till 20.03.2020. No doubt, as rightly contended by the learned counsel for the petitioner, Covid-19 restrictions and lock-down were imposed till the above period. But the petitioner has not offered any reason or explanation for not complying with the conditions subsequent to the Covid-19 restrictions. As rightly pointed out by the learned counsel for the petitioner, the sentence imposed on the petitioner, has already been suspended by this Court earlier.

10. Considering the above facts and circumstances of the case and also the fact that the petitioner is in Prison from 08.03.2023 and taking note the punishment awarded, this Court is inclined to suspend the sentence.

11. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Chief Judicial Magistrate, Thanjavur @ Kumbakonam;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the concerned Court on all working days daily at 10.30 a.m., till the disposal of the revision and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of 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.

sd/-

28/04/2023

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28/04/2023

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



DAS
TO

1 THE ADDITIONAL DISTRICT & SESSIONS JUDGE (FAST TRACK COURT),
KUMBAKONAM.

2 THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBKOANAM.

3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

4 THE INSPECTOR OF POLICE
THIRUNEELAKUDI POLICE STATION,
THANJAVUR DISTRICT.

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

+1. C.C. to M/S.PRABHA S Advocate SR.No.7092

ORDER

IN

CRL MP (MD) No.4545 of 2023
IN

CRL RC (MD) No.49 of 2020

Date :28/04/2023

SA/CG/SAR. /28.04.2023/5P/7C