



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

Tuesday, the Eleventh day of April Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.5736 of 2023

IN

CRL A(MD) No.287 of 2023

VASUDEVAN

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
SRIVILLIPUTTUR TALUK POLICE STATION,
VIRDHUNAGAR DISTRICT.
CRIME NO. 08/2013

... 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 the court of the Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur in S.C No. 08/2019 on 27.03.2023 pending disposal of the Criminal Appeal.

PRAYER IN CRL A(MD) .287/2023:

Pleased to call for records and set aside the conviction and sentence imposed by the Court of the Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur in S.C.No.8/2019 on 27.03.2023 and allow this Criminal Appeal.

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.JOTHI BASU M, Advocate for the petitioner and of Mr.R.SIVAKUMAR, Government Advocate(crl.side) on behalf of the Respondent, While admitting the Criminal Appeal, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur, in S.C.No.8 of 2019, dated 27.03.2023, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the petitioner/sole accused has got quarry permit for survey No.319/3 for a period from 10.02.2004 to 09.02.2009, that the petitioner during the said permit period apart from the land allotted to him, he also quarried mineral found in adjacent Survey No.588/12 classified as lake promboke and Survey No.588/14 classified as cart track with an intention to theft



the mineral and thereby caused loss of Rs.18,13,350/- to the Government and that when the defacto complainant lodged a petition in this regard, the petitioner had threatened him with dire consequences and on that basis, FIR came to be registered in Crime No.8 of 2013.

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3. The respondent police, after completing the investigation, has laid the final report and the case was taken on file in P.R.C.No.17 of 2018 on the file of the learned Judicial Magistrate No.II, Srivilliputtur. Subsequently, the case was committed to the Principal District and Sessions Judge, Virudhunagar District @ Srivilliputtur and the case was taken on file in S.C.No.8 of 2019.

4. During trial, the prosecution has examined 14 witnesses as P.W.1 to P.W.14, exhibited 9 documents as Ex.P.1 to Ex.P.9 and marked 1 material object as M.O.1. The accused has adduced neither oral nor documentary evidence.

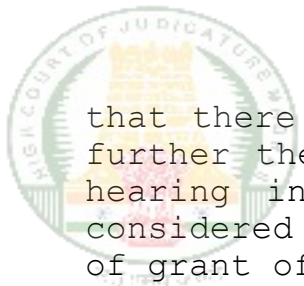
5. The learned Sessions Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 27.03.2023 finding the petitioner guilty for the offences under Section 379 IPC and Section 3(i) of TNPPDL Act and sentenced him to undergo 1 year Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo 1 month Simple Imprisonment for the offence under Section 379 IPC and to undergo 1 year Rigorous Imprisonment for the offence under Section 3(i) of TNPPDL Act and that the above sentences were ordered to be run concurrently. The Trial Court has already suspended the sentence imposed on the petitioner till 24.04.2023. Challenging the above said conviction and sentence, the accused has preferred the present Criminal Appeal along with the above miscellaneous petition for suspension of sentence.

6. The learned counsel appearing for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner has already paid fine amount.

7. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

8. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

9. The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also contradictions in material particulars. The fact remains



that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

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10. Accordingly, the relief of suspension of sentence 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 Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur;

(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 daily at 10.30 a.m., until further orders 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/-

11/04/2023

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/04/2023

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

CSM

TO

1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE INSPECTOR OF POLICE
SRIVILLIPUTTUR TALUK POLICE STATION, VIRUDHUNAGAR DISTRICT.

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

+1. C.C. to M/S.JOTHI BASU M Advocate SR.No.5713

ORDER IN

CRL MP(MD) No.5736 of 2023
IN CRL A(MD) No.287 of 2023
Date :11/04/2023

SA/VR/SAR.4/19.04.2023/3P/5C

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