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CRL MP(MD)



23

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

Friday, the Twelfth day of May Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.6127 of 2023

IN

CRL A(MD) No.304 of 2023

CHINNAPPA

... PETITIONER/APPELLANT

Vs

State Rep.by
THE INSPECTOR OF POLICE
VIRALIMALAI POLICE STATION,
PUDUKKOTTAI DISTRICT.
CRIME NO.599 OF 2020

... 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 imposed by the Learned Additional District and Sessions Court, Pudukkottai in S.C No. 41 of 2021 by the Judgment dated 30.03.2023 and enlarge the petitioner / Appellant on bail pending disposal of the above said Criminal Appeal.

PRAYER IN CRL A(MD).304/2023 :

To call for the records and set aside the judgment and conviction dated 30.03.2023, by the learned Additional District and Sessions Court, Pudukkottai in S.C.No.41 of 2021 and acquit the Appellant.

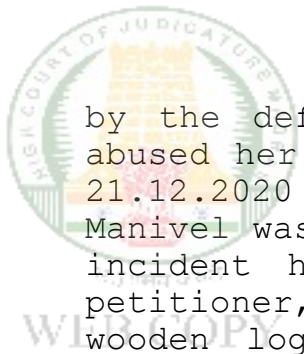
Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.R.ANAND, Advocate for the petitioner and of MR.R.SIVA KUMAR, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

RESERVED ON	27.04.2023
PRONOUNCED ON	12.05.2023

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Additional District and Sessions Judge, Pudukkottai, in S.C.No.41 of 2021, dated 30.03.2023, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that on 20.12.2020 at about 09.30 a.m., when the petitioner/sole accused and the relative of the defacto complainant were loading well sand, the same was questioned

<https://www.mca.gov.in/judis>



by the defacto complainant and at that time, the petitioner had abused her in filthy language and attempted to attack her, that on 21.12.2020 at about 09.20 p.m., when the defacto complainant's son Manivel was returning to his home and after coming to know about the incident had occurred earlier, he shouted at the house of the petitioner, that the petitioner has come out of the house with wooden log and abused the said Manivel in filthy language and attacked him on his head and caused serious injury on his head and that the said Manivel had breathed his last, on the way to hospital and on the basis of the complaint lodged, FIR came to be registered in Crime No.599 of 2020.

3. The respondent police, after completing the investigation, has laid the final report for the offences under Sections 294(b) and 302 IPC.

4. During trial, the prosecution has examined 12 witnesses as P.W.1 to P.W.12, exhibited 15 documents as Ex.P.1 to Ex.P.15 and marked 1 material object as M.O.1. The defence has adduced neither oral nor documentary evidence.

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the impugned judgment dated 30.03.2023 convicting the petitioner for the offences under Sections 294(b) and 304(Part 2) IPC and sentenced him to undergo 2 months Rigorous Imprisonment for the offence under Section 294(b) IPC and sentenced him to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 3 months Simple Imprisonment for the offence under Section 304(Part 2) IPC. Aggrieved by the said judgment of conviction and sentence, the accused has come forward with the present appeal along with the above application for seeking suspension of sentence.

6. The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution, that the petitioner has been falsely implicated in the above case, that the petitioner is aged 71 years and is a disabled person, that the petitioner is also having old age ailments such as sugar, pressure and visionary problems, that the petitioner is in jail from 30.03.2023 and that due to continuous imprisonment, he could not take treatment for his ailments.

7. As rightly contended by the learned counsel appearing for the petitioner, the trial Court has framed the charges for the offences under Sections 294(b) and 302 IPC, but after full-fledged trial, the trial Judge has convicted the petitioner for the offences under Sections 294(b) and 304(Part 2) IPC.

8. According to the learned counsel appearing for the petitioner, the petitioner is now more than 71 years old, that his



right vision is having problems, that he is a disabled person, having issue in his left leg and that he has been suffering from diabetics, blood pressure and other old age related issues.

9. The learned counsel appearing for the petitioner would further 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.

10. 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.

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

12. The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain 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.

13. Considering the above facts and circumstances of the case and also taking note of the age of the petitioner and his ill-health, this Court is inclined to suspend the sentence imposed on the petitioner.

14. In the result, this Criminal Miscellaneous Petition is allowed. 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 District Munsif cum Judicial Magistrate Court, Iluppur;

(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 at 10.30 a.m., on all working days 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/-

12/05/2023

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12/05/2023

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

CSM

TO

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, PUDUKKOTTAI.
 - 2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, ILUPPUR.
 - 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, PUDUKKOTTAI DISTRICT.
 - 4 THE INSPECTOR OF POLICE, VIRALIMALAI POLICE STATION,
PUDUKKOTTAI DISTRICT.
 - 5 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
 - 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +2 CC to M/s.A.THIYAGARAJAN, Advocate (SR-7387[I], SR-7378[I] dated
12/05/2023)

ORDER

IN

CRL MP(MD) No.6127 of 2023

IN

CRL A(MD) No.304 of 2023

Date :12/05/2023

RS/VR/SAR-(12.05.2023) 4P 9C