



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

Wednesday, the Twenty Sixth day of April Two Thousand and
Twenty Three

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

Crl.M.P(MD)No.6824 of 2023
in
Crl.A. (MD)No.349 of 2023

MANIVEL

...APPELLANT/SOLE ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
THOGAIMALAI POLICE STATION,
KARUR DISTRICT.
(CRIME NO.395/2020).

... 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 of 3 years on the appellant by the Learned Principal District and Sessions Judge, Karur in SC.No.29/2021 in order dt.24/3/2023 and release the accused on bail pending disposal of the the Appeal.

PRAYER IN Crl.A. (MD)No.349 of 2023:

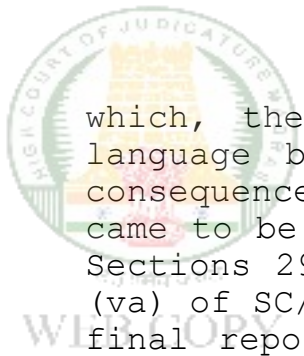
To call for records and set aside the judgment of the learned Principal District and Sessions Judge, Karur in S.C.No.29/2021, dated 24.03.2023 convicting appellant for the offence U/s.326 IPC and sentenced to undergo 3 years rigorous imprisonment and imposed fine of Rs.2000/- in default to undergo simple imprisonment for three months and allow the appeal and acquit the accused.

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.MUTHUKRISHNAN S, Advocate for the petitioner and of M/S.R.SIVAKUMAR, Government Advocate(Crl.side) on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This petition has been filed to suspend the sentence passed in S.C.No.29 of 2021, dated 24.03.2023, on the file of the learned Principal District and Sessions Judge, Karur, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that there was a wordy quarrel between the petitioner and the defacto complainant, due to

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which, the petitioner abused the defacto complainant with vulgar language by using caste name and also threatened him with dire consequences, based on the complaint of the defacto complainant, FIR came to be registered in Crime No.395 of 2020 for the offence under Sections 294(b), 326, 427, 506(ii) IPC and Section 3(1)(r)(s), 3(2)(va) of SC/ST (POA) Act and that after completing the investigation, final report came to be filed and the same was taken on file in S.C.No.29 of 2021.

3. During trial, the prosecution has examined 9 witnesses as P.W.1 to P.W.9; exhibited 15 documents as Ex.P.1 to Ex.P.15 and marked 3 material objects as M.O.1 to M.O.3. The accused has adduced neither oral nor any documentary evidence.

4. The learned Judge, upon considering the evidence adduced and on hearing the arguments of both the sides, has passed the judgment dated 24.03.2023, acquitting the accused for the offence under Sections 294(b), 506(ii) IPC and Section 3(1)(r)(s) and 3(2)(va) of SC/ST Act and convicting the petitioner/accused under Section 326 IPC and sentenced him to undergo 3 years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo three months simple imprisonment. The Trial Court has suspended the sentence imposed on the petitioner till 24.03.2023. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5. The learned counsel 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.

6. 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.

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

8. The learned counsel 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.



9. 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, Karur;

(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 am for a period of one month and thereafter, the petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal 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/-

26/04/2023

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26/04/2023

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

DAS

TO

1.THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, KARUR.

2.THE INSPECTOR OF POLICE
THOGAIMALAI POLICE STATION, KARUR DISTRICT.

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

+1 CC to M/s.MUTHUKRISHNAN S, Advocate (SR-6622[I] dated
26/04/2023)

ORDER IN
Crl.M.P(MD)No.6824 of 2023
in Crl.A.(MD)No.349 of 2023
Date :26/04/2023

RK/SSS/SAR-(26/04/2023) 3P/5C

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