



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

Thursday, the Twenty Seventh 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.6922 of 2023
in
CRL A(MD) No.355 of 2023

SARAVANAN

2 MURUGAN

... Petitioners / Appellants

Vs

STATE REPRESENTED BY
THE SUB INSPECTOR OF POLICE
USILAMPATTI TALUK POLICE STATION,
MADURAI DISTRICT.
(CRIME NO.10 OF 2015).

... 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 in Spl.CC.No.150/2021 passed by the Learned Special District Judge to deal with the cases of offences in contravention of the Provisions of the Mines and Minerals(D and R) Act, 1957, Madurai dated 22.02.2023 and enlarge the petitioners on bail pending disposal of the above Criminal Appeal.

Prayer in CRL A(MD). 355/ 2023 :

To call for the records relating to the judgment passed in Spl.C.C.No.150 of 2021 dated 22.02.2023 on the file of 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 and set aside the same.

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.VEERAKUMAR T, 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 passed in Spl.C.C.No.150 of 2021, dated 22.02.2023, on the file of the learned 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 22.02.2023 and enlarge the petitioners on bail, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that on 07.01.2015 at about 11.00 hours, the respondent Police along with officials were on routine patrol, at that time they found that the petitioners were transporting the sand in a tractor along with trailer bearing Reg.No.TN-46-D-0662, illegally. On that basis, FIR came to be registered in Crime No.10 of 2015 for the offence under Section 379 IPC r/w 21(1)(5) of Mines and Minerals (D&R) Act, 1957 and that after completing the investigation, final report came to be filed and the same was taken on file in Spl.S.C.No. 150 of 2021.

3. During trial, the prosecution has examined 5 witnesses as P.W.1 to P.W.5; exhibited 4 documents as Ex.P.1 to Ex.P.4 and marked 1 material object as M.O.1. The accused have adduced neither oral nor any documentary evidence.

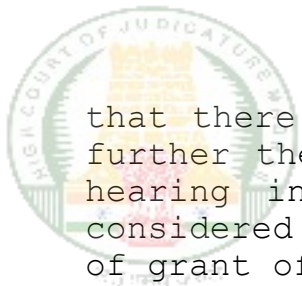
4. The learned Judge, upon considering the evidence adduced and on hearing the arguments of both the sides, has passed the judgment dated 22.02.2023, convicting the petitioners/Accused under Section 379 IPC and sentenced the first accused to undergo one year rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo three months rigorous imprisonment and sentenced the second accused to undergo six months rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo two months rigorous imprisonment. The Trial Court has suspended the sentence imposed on the petitioners till 24.03.2023. Challenging the above said conviction and sentence, the petitioners have preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5. The learned counsel for the petitioners 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 fine amount has already been paid by the petitioners.

6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that there are enough materials available on record against the petitioners 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 petitioners 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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9. Accordingly, the relief of suspension of sentence is granted to the petitioners on the following conditions:-

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

(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 petitioners shall appear before the concerned Court daily at 10.30 am for a period of one month and thereafter, the petitioners 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 they are not able to appear before the trial Court on any day, they 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/-

27/04/2023

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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 Special Judge to deal with the cases of Offences in contravention of the Provisions of the Mines and Mineral(D&R) Act, Madurai.

2.The Sub Inspector of Police,
Usilampatti Taluk Police Station,
Madurai District.

<https://www.mhc tn.gov.in/judis>



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.VEERAKUMAR.T, Advocate (SR-6782[I] dated 27/04/2023)

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ORDER

IN

CRL MP(MD) No.6922 of 2023

in

CRL A(MD) No.355 of 2023

Date :27/04/2023

ED/SSS/SAR- (28/04/2023) 4P 5C