



CRL MP(MD) No.10177 of 2023

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

Thursday, the Twenty Fourth day of August Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

Crl.MP(MD) No.10177 of 2023
in
Crl.A(MD)No.551 of 2023

1 POWNTHAI

2 LAKSHMI

... PETITIONERS/APPELLANTS

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
NIB CID,
MADURAI DISTRICT.
CRIME NO.81 OF 2016.

... 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 learned District and Sessions Court for Communal Clash Cases, Madurai passed in CC.No.333 of 2016 dated 20.01.2023 enlarge the petitioner on bail pending disposal of the criminal appeal

PRAYER IN Crl.A(MD)No.551 of 2023:

Pleased to call for the records in C.C.No.333 of 2016 relating to the Judgment dated 20.01.2023 passed by the District and Sessions Court for Communal Clash Cases, Madurai and to set aside the judgment of the conviction on the appellants/accused No.1&2.



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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. MUNIYANDI.S, Advocate for the petitioners and of MR.T.SENTHIL KUMAR, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

The petitioners/ A1 & A2 are arrayed as accused in C.C.No.333 of 2016 filed this petition to suspend the sentence imposed by the learned District and Sessions Court for Communal Clash Cases, Madurai, dated 20.01.2023, and enlarge the petitioners on bail pending disposal of the criminal appeal.

2.The case of the prosecution is that on receipt of secret information on 07.05.2016, at about 12.30 a.m., the Special Sub-Inspector of Police obtained permission from the Higher Officials and went to the Meenakshipuram Vilaku, along with the informant and a team and found the accused were in possession of 22 Kgs of Ganja. The said Ganja was recovered from the accused. After taking samples, the petitioners were brought to the police station and registered the First Information Report in Crime No.81 of 2016 against them for the offence punishable under Sections 8(c) r/w 20(b)(ii)(C), 29(1), 27(A) of NDPS Act. Thereafter, they were produced before the Court along with the contraband and they were remanded to judicial custody. After completion of investigation, the respondent police filed a final report and the



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same has been taken cognizance in C.C.No.333 of 2016, on the file of the learned District and Sessions Judge, Communal Clash Cases Court, Madurai.

3. During trial, the prosecution has examined 3 witnesses as P.W.1 to P.W.3 and exhibited 12 documents as Ex.P.1 to Ex.P.12 and three material objects as M.O.1 to M.O.6. The accused has adduced neither oral nor documentary evidence.

4. The learned Sessions Judge, upon considering the evidence adduced and on hearing the arguments of both the sides, has passed the impugned judgment, dated 20.01.2023 and convicted the petitioners/accused for the offence under Section 8(c) r/w Section 20(b)(ii)(C) of NDPS Act and sentenced them to undergo 10 years rigorous imprisonment each and to pay a fine of Rs.1,00,000/- each, in default, to undergo 6 months simple imprisonment each. Aggrieved by the judgment of conviction and sentence, the accused have preferred the present appeal along with this suspension of sentence petition.

5. The learned counsel for the petitioners submitted that the information given by the informant was not recorded by the respondent police and they have not sent the same to the higher officials. He further submitted that the property was seized by



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the respondent on 07.05.2016. But, it was produced after 15 days of the occurrence.

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Usually in NDPS cases, arrest and other formalities should be done by the respondent on the spot itself. But, in this case, the same was done after registration of FIR. He further submitted that the learned trial Judge as well as the Appellate Judge has not considered the evidence in proper prospect and hence, the judgments are suffered from perversity. He further submitted that the accused are in custody from 07.05.2016 onwards. Hence, he seeks for the suspension of sentence.

6.The learned Additional Public Prosecutor submitted that the first petitioner is having 5 previous cases and the second respondent is having 3 previous cases. Hence, he vehemently opposed to grant suspension of sentence to the petitioners.

7.Even though, the petitioners are in custody from 07.05.2016, considering the antecedent reported against the petitioners, this Court is not inclined to entertain this petition.

8.Accordingly, this Criminal Miscellaneous Petition is dismissed.



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9.Post the Appeal after four weeks after preparation of typed set of papers.

sd/-
24/08/2023

/ TRUE COPY /

/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

dss

TO

1.THE DISTRICT AND SESSIONS JUDGE FOR COMMUNAL CLASH CASES,
MADURAI.

2 THE INSPECTOR OF POLICE
NIB CID,
MADURAI DISTRICT.

3.THE SUPERINTENDENT,
WOMEN CENTRAL PRISON,
MADURAI.

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

COPY TO

1.THE SECTION OFFICER,
T& P SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (PREPARATION OF TYPED SET OF PAPERS.)

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



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2 THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
Crl.MP(MD) No.10177 of 2023
in
Crl.A(MD)No.551 of 2023
Date :24/08/2023

RK/VR (07/09/2023) 6P / 7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023