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CRL MP(MD)



23

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

Wednesday, the Seventeenth day of May Two Thousand and Twenty Three
PRESENT

The Hon`ble Mrs.Justice T.V.THAMILSELVI

CRL MP(MD) No.7424 & 7425 of 2023

in

CRL RC(MD) No.513 of 2023

S.GNANA THIRAVIYAM

... PETITIONER/PETITIONER
IN BOTH CRL MP'S

Vs

State Rep.by
THE INSPECTOR OF POLICE
KOTTAR POLICE STATION,
KANYAKUMARI DISTRICT.
(CRIME NO.1188/2008).

... RESPONDENT/RESPONDENT
IN BOTH CRL MP'S

PRAYER IN CRL MP(MD) .7424/2023 :

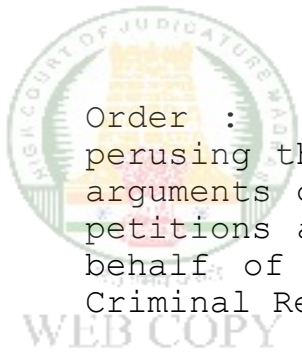
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed by the Learned Principal Assistant Sessions Judge, Nagercoil in SC.No.115/2009 dt.5/3/2012 and the confirming Judgement of conviction and sentence passed by the Learned Additional District and Sessions (Fast Track Court), Kanyakumari at Nagercoil dated 05.04.2023 in C.A.No.27 of 2012 and enlarge the petitioner on bail pending disposal of the main revision.

Prayer in CRL MP(MD) . 7425/ 2023 :

To Exempt the petitioner from surrendering before the Trial court pursuant to the Judgement and sentence passed by the Learned Principal Assistant Sessions Judge, Nagercoil in STC No.115/2009 dt.5/3/2012 and the confirming Judgement of conviction and sentence passed by the Learned Additional District & Sessions (Fast Track Court), Kanyakumari at Nagercoil dated 05.04.2023 in C.A.No.27 of 2012 in the main revision.

Prayer in CRL RC(MD) . 513/ 2023 :

To call for the records relating to Judgement passed by the Learned Principal Assistant Sessions Judge, Nagercoil in SC No.115/2009 dt.5/3/2012 and the confirming Judgement of conviction and sentence passed by the Learned Additional District and Sessions Court (Fast Track Court), Kanyakumari at Nagercoil dated 05.04.2023 in C.A.No.27 of 2012, and set aside the same.



Order : This petition coming up for orders on this date, on perusing the petition filed in support thereof and upon hearing the arguments of M/S.DILIP KUMAR N, Advocate for the petitioner in both petitions and of MR.R.SIVAKUMAR, Government Advocate (Crl.Side) on behalf of the Respondent in both petitions, while admitting the Criminal Revision Case, the court made the following order:-

This petition is filed to suspend the sentence passed in S.C.No.115 of 2009, dated 05.03.2012, on the file of the learned Principal Assistant Sessions Judge, Nagercoil, by which the petitioner has been convicted for the alleged offences punishable under Sections 294(B), 324 and 326 IPC and sentenced to undergo simple imprisonment for a period of one month under Section 294(B) IPC and to undergo rigorous imprisonment for a period of one month for the offence under Section 324 IPC and to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/- in default to undergo three months simple imprisonment, which was confirmed by the Additional District and Sessions (Fast Track Court), Kanyakumari at Nagercoil dated 05.04.2023 in C.A.No.27 of 2012.

2.The learned counsel appearing for the petitioner submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

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

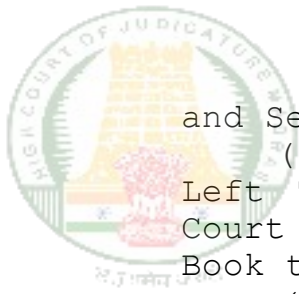
4.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

5.The learned counsel appearing for the petitioner pointed out that there are 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 revision petition and further the criminal revision petition 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.

6.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.10,000/- (Rupees Ten Thousand only) with two sureties, of whom, one should be a blood relative, each for a like

the satisfaction of the learned Additional District



and Sessions (Fast Track Court), Kanyakumari.

(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 trial court once in fifteen days i.e., on 1st and 15th day of every month 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.

7.The petitioner **is not exempted** from surrendering before the trial Court for the purpose of furnishing sureties.

sd/-

17/05/2023

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

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TO

1 THE PRINCIPAL ASSISTANT SESSIONS JUDGE, NAGERCOIL.

2 THE ADDITIONAL DISTRICT AND SESSIONS (FAST TRACK COURT),
KANYAKUMARI AT NAGERCOIL.

3 THE INSPECTOR OF POLICE, KOTTAR POLICE STATION,
KANYAKUMARI DISTRICT.

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

+2 CC to M/s.N.DILIP KUMAR, Advocate (SR-7469[I], SR-7468[I] dated
18/05/2023)

ORDER

IN

CRL MP(MD) No.7424 & 7425 of 2023
in

CRL RC(MD) No.513 of 2023

Date :17/05/2023