



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

Thursday, the Eighteenth day of May Two Thousand and Twenty Three

PRESENT

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

CRL MP(MD) No.7436 of 2023
in
CRL A(MD)No.394 of 2023

JOHNRAJ

... PETITIONER/APPELLANT

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
SATTUR TALUKA POLICE STATION, SATTUR,
VIRUDHUNAGAR DISTRICT.
CRIME NO.244 OF 2014.

... 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 and release the Appellant/Accused on Bail pending disposal of the Criminal Appeal before this Honble Court against the Judgment in Sessions Case No.37/2016 dt.28.3.2023 on the file of the Sess.Judge(Fast Track Mahila Court), Srivilliputhur on such terms and conditions as may be deemed fit.

PRAYER IN CRL A(MD)No.394 of 2023:

Pleased to call for the records and set aside the judgment dated 28.03.2023 made in S.C.No.27 of 2016 on the file of the Sessions Judge(Fast Track Mahila Court), Srivilliputhur and allow the appeal.

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.JOHN VINCENT A, Advocate for the petitioner and of Mr.S.S.Madhavan, Government Advocate(crl.side) on behalf of the Respondents while admitting the CRL A., the Court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District @ Srivilliputhur, in S.C.No.27 of 2016, dated 28.03.2023, till the disposal of this Criminal Appeal.



2. The case of the prosecution is that the petitioner, the accused and the defacto complainant are husband and wife, that on 12.09.2014, the petitioner in a drunken mood had attacked the defacto complainant by using aruval, due to which, the defacto complainant had sustained injuries and on that basis, FIR came to be registered in Crime No.244 of 2014 for the offences under Sections 294(b), 324 and 307 IPC.

3. The respondent police, after completing the investigation, has filed the final report and the case was taken on file in S.C.No.27 of 2016 and the same was pending on the file of the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District @ Srivilliputhur.

4. During trial, the prosecution has examined 10 witnesses as P.W.1 to P.W.10, exhibited 9 documents as Ex.P.1 to Ex.P.9 and marked 1 material object as M.O.1. The accused has adduced neither oral nor documentary evidence.

5. The learned Sessions Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 28.03.2023 convicting the petitioner for the offence under Section 307 IPC and sentenced him to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 3 months Rigorous Imprisonment. Challenging the above said conviction and sentence, the accused has preferred the present Criminal Appeal along with the above miscellaneous petition for suspension of sentence.

6. The learned counsel appearing 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.

7. 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. He would further submit that the petitioner is not having any previous cases.

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

9. 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 suspension of sentence.



10. 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 learned Sessions Judge (Fast Track Mahila Court), Srivilliputtur;

(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 on all working days 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.

sd/-

18/05/2023

/ TRUE COPY /

19/05/2023

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

TO

- 1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 2 THE INSPECTOR OF POLICE
SATTUR TALUKA POLICE STATION, SATTUR,
VIRUDHUNAGAR DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.JOHN VINCENT A Advocate SR.No.7587

ORDER

IN

CRL MP(MD) No.7436 of 2023
in

CRL A(MD)No.394 of 2023

Date :18/05/2023

SS/CG/SAR-III/19.05.2023/ 3P/ 6C

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