



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

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

WEB COPY

PRESENT

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

CRL MP(MD) No.7473 of 2023
in
CRL RC(MD)No.524 of 2023

VISWANATHAN

... PETITIONER/REVISION PETITIONER

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
KENIKKARAI POLICE STATION,
RAMANATHAPURAM 623504.
CRIME NO.4/2012.

... 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 confirmed in Crl Appeal No.21/2021 by the Principal District and Sessions Judge at Ramanathapuram against the sentence passed in SC No.128/2015 by the Chief Judicial Magistrate, Ramanathapuram dated 30.03.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Revision Petition before this Hon`ble Court.

Prayer in CRL RC(MD). 524/ 2023 :

To calling for the records pertaining to allow this appeal and set aside the conviction confirmed in Crl Appeal No.21/2021 by the Principal District and Sessions Judge at Ramanathapuram against the sentence passed in SC No.128/2015 on the file of the Chief Judicial Magistrate, Ramanathapuram.

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.K.SIVABALAN, Advocate for the petitioner and of Mr.M.SAKTHI KUMAR, Government Advocate(Crl.side) on behalf of the Respondent while admitting the CRL RC., the Court made the following order:-

The above petition has been filed to suspend the sentence imposed on the petitioner/second accused by the learned Chief Judicial Magistrate/Assistant Sessions Judge, Ramanathapuram, in S.C.No.128 of 2015, dated 07.10.2021, which was confirmed by the learned Principal District and Sessions Judge, Ramanathapuram, in C.A.No.21 of 2021, dated 30.03.2023, till the disposal of this criminal revision.



2. The case of the prosecution is that due to money dispute, the petitioner/second accused along with the other accused had attacked the defacto complainant's son Maheshwaran by using deadly weapons and caused grievous injuries to him and on the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.4 of 2012.

3. The respondent police, after completing the investigation, has filed the final report and the case was taken on file in P.R.C.No.8 of 2013 on the file of the learned Judicial Magistrate No.II, Ramanathapuram. Subsequently, the case was committed to the Principal District and Sessions Judge, Ramanathapuram and the case was taken on file in S.C.No.128 of 2015.

4. The learned counsel appearing for the petitioner would submit that the petitioner has been convicted by the trial Court for the alleged offence under Section 307 IPC and sentenced him to undergo 3 years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo 6 months simple imprisonment.

5. Challenging the above said conviction and sentence, the petitioner has filed an appeal in C.A.No.21 of 2021 on the file of the learned Principal District and Sessions Judge, Ramanathapuram. The learned Sessions Judge confirmed the conviction and sentence and dismissed the appeal. Being dissatisfied with the said conviction and sentence, the petitioner has preferred the present Criminal Revision along with the instant miscellaneous petition seeking suspension of sentence.

6. The learned counsel appearing for the petitioner would further 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 the 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.

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 revision and further the criminal revision 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.



10. 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 Chief Judicial Magistrate, Ramanathapuram;

(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 said 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

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/05/2023

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

csm

TO

1 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, RAMANATHAPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM.

3 THE INSPECTOR OF POLICE
KENIKKARAI POLICE STATION, RAMANATHAPURAM 623504.

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

+ 1 CC TO M/S.K.SIVABALAN, Advocate IN SR No. 7710 DT 19/05/2023

ORDER

IN

CRL MP(MD) No.7473 of 2023
in

CRL RC(MD) No.524 of 2023

Date :18/05/2023

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