



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.M.P.(MD)No.7484 of 2023
in
Crl.R.C.(MD)No.528 of 2023

GUNASEKARAN

... REVISION PETITIONER/APPELLANT/
ACCUSED

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
MARUVUR POLICE STATION,
THANJAVUR DISTRICT.
(CRIME NO.74 OF 2014)

... REVISION RESPONDENT/RESPONDENT/
COMPLAINANT

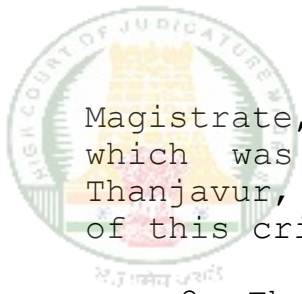
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the execution of sentence in criminal appeal No.84 of 2022 on the file of the learned principal sessions Judge, Thanjavur dated 17.04.2023 confirming the judgment in CC.No.253 of 2014 on the file of the learned Judicial Magistrate, Thiruvaiyaru dated 05.09.2022 pending disposal of the Criminal Revision Petition.

Prayer in CRL RC(MD). 528/ 2023 :

To call for the records from the lower courts and set aside the judgment of the appellate court passed in Criminal Appeal No.84 of 2022 on the file of the Principal Sessions Judge, Thanjavur dated 17.04.2023 confirming the judgment in CC.No.253 of 2014 on the file of the learned Judicial Magistrate, Thiruvaiyaru dated 05.09.2022 by allowing this Revision.

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.JOEL PAUL ANTONY.A, Advocate for the petitioner and of M/S.M.SAKTHI KUMAR, Government Advocate(Crl.Side) on behalf of the Respondent, while admitting the Crl.R.C, the court made the following order:-

The above petition has been filed to suspend the sentence imposed on the petitioner/sole accused by the learned Judicial



Magistrate, Thiruvaiyaru, in C.C.No.253 of 2014, dated 05.08.2014, which was confirmed by the learned Principal Sessions Judge, Thanjavur, in C.A.No.84 of 2022, dated 17.04.2023, till the disposal of this criminal revision.

2. The case of the prosecution is that on 26.08.2014 at about 08.30 a.m., at Aachanur Main Road, the petitioner/sole accused was driving the lorry bearing Registration No.TN-68-F-8390 from Thiruvaiyaru to Thirukkattuppalli from East to West in a rash and negligent manner and also without making horn sound and hit the Mahindra mini load van bearing Registration No.TN-68-C-6883, which was proceeding in front of the lorry and due to the sudden hit, the Mahindra mini van without control dashed the deceased Thavamary, who was standing in front of her house, due to which, she succumbed to the injuries and on that basis, FIR came to be registered in Crime No.74 of 2014. The respondent police, after completing the investigation, has filed the final report for the offences under Sections 279, 337 and 304(A) IPC.

3. The learned counsel appearing for the petitioner would submit that the petitioner has been convicted by the trial Court for the alleged offences under Sections 279, 337 (2 counts) and 304(A) IPC and sentenced to pay a fine of Rs.1,000/-, in default, to undergo 1 week simple imprisonment for the offence under Section 279 IPC, sentenced to pay a fine of Rs.500/- for each count, in default, to undergo 1 week simple imprisonment for the offence under Section 337 (2 counts) IPC and sentenced to undergo 2 years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 1 month simple imprisonment for the offence under Section 304(A) IPC.

4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in C.A.No.84 of 2021 on the file of the learned Principal Sessions Judge, Thanjavur. 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.

5. 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 the fine amount.

6. 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.



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

8. 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.

9. 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 Judicial Magistrate, Thiruvaiyaru;

(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

/ TRUE COPY /

19/05/2023

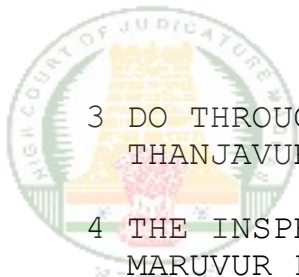
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM

TO

1 THE PRINCIPAL SESSIONS JUDGE, THANJAVUR.

2 THE JUDICIAL MAGISTRATE, THIRUVAIYARU.



Crl.M.P.(MD)



23

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.

4 THE INSPECTOR OF POLICE,
MARUVUR POLICE STATION,
THANJAVUR DISTRICT.

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

+1 CC to M/s.JOEL PAUL ANTONY.A, Advocate (SR-7623[I] dated
19/05/2023)

ORDER

IN

CRL MP (MD) No.7484 of 2023

IN

CRL RC (MD) No.528 of 2023

Date :18/05/2023

NA/VR/SAR- /19.05.2023/4P/7C