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CRL MP(MD) No.8783 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/09/2023

PRESENT

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

CRL MP(MD) No.8783 of 2023

in

CRL RC(MD) No.616 of 2023

SABARINATH

... PETITIONER/PETITIONER

Vs

State Rep.by

THE INSPECTOR OF POLICE

KULITHALAI POLICE STATION,

KARUR DISTRICT.

CRIME NO.211/2018.

... RESPONDENT/RESPONDENT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspending the sentence imposed upon him in C.C.No.110 of 2018 on the file of the learned Judicial Magistrate No.II,Kulithalai,Karur District by judgment dated 25.11.2018 which conviction and sentence was confirmed vide Judgment dated 30.11.2022 passed in CrI.A.No.47 of 2021 on the file of the District Judge, Karur pending disposal of the main Criminal Revision.

Prayer in CRL RC(MD). 616/ 2023 :

To call for the records and set aside the judgement dated 25.11.2021 passed in C.C.No.110 of 2018 on the file of the learned Judicial Magistrate No.II, Kulithalai, Karur District thereby the petitioner/accused was convicted to pay a fine of Rs.1,000/- in default of which to undergo simple imprisonment of two weeks for the offence U/s.279 of IPC. Further, he was convicted to undergo one year rigorous imprisonment and to pay a fine of Rs.3,000/- and in default of which to undergo simple imprisonment for three months for the offence U/s.304(A) of IPC, the Criminal Appeal is dismissed and the Judgment of conviction and sentence is hereby confirmed vide Judgment dated 30.11.2022 passed in CrI.A.No.47 of 2021 on the file of the District Judge, Karur and acquit the Petitioner / Accused herein.



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Order : This Criminal Miscellaneous petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.R.L.DHILIPAN PANDIAN, Advocate for M/S.ARUNRAJ.K, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate (Crl.Side) on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

This petition is filed to suspend the sentence imposed by the District Judge, Karur, in Crl.A.No.47 of 2021 dated 30.11.2022, in confirming the conviction and sentence imposed by learned Judicial Magistrate No.II, Kulithalai, in C.C.No.110 of 2018, dated 25.11.2018, and enlarge the petitioner on bail pending disposal of the Criminal Revision.

2.The case of the prosecution is that on 22.04.2018, at about 06.00 p.m, when the deceased namely, Mrs.Saroja was standing on the road side in Kulithalai - Manaparai Road, near Co-operative Society, Vai.Puthur, the accused drove a Auto bearing Reg.No.TN-47-AP-4127 in a rash and negligent manner at a high speed and dashed against the deceased and caused death.

3.On receipt of complaint, the respondent police registered a case in Crime No.211 of 2018 for the offence under Sections 279 and 304(A) of IPC. After investigation, the respondent police filed final report before the learned Judicial Magistrate No.II, Kulithalai, and the same was taken on cognizance in C.C.No.110 of 2018, for the offence under Sections 279 and 304(A) of IPC.

4.The learned counsel for the petitioner would submit that the petitioner was



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convicted by the learned Judicial Magistrate No.II, Kulithalai, for the offence under 279 and 304 of IPC and sentenced him to to pay a fine of Rs.1000/-, in default to undergo 2 weeks Simple Imprisonment for the offence under Section 279 of IPC and sentenced him to undergo 1 year Rigorous Imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo 3 months Simple Imprisonment for the offence under Section 304(A) of IPC. The learned District Judge, Karur, dismissed the appeal filed by the petitioner, in Crl.A.No.47 of 2021. Aggrieved by the said order, the petitioner has preferred the present revision along with the present miscellaneous petition seeking suspension of sentence.

5. The learned counsel for the petitioner submitted that there are some arguable points involved in the criminal revision and the learned trial Judge as well as the Appellate Judge has not considered the evidence in proper prospect and hence, the judgment is suffered from perversity. He further submitted that the version of P.W.1, the eye-witness is not believable one. Because he is the chance witness to the occurrence and also no other witnesses were not examined by the prosecution to prove the incident. He further submitted that the petitioner is in custody from 28.08.2023 onwards. Hence, he seeks for the suspension of sentence.

6. This Court has carefully considered the submission made by the counsel for the petitioner and also perused the materials available on record.



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7. The reliability of the chance witness to prove the case of the prosecution that the petitioner drove his vehicle in a rash and negligent manner to be considered at the time of final hearing and considering the period of incarceration and as rightly contended by the learned counsel for the petitioner that there are some arguable points involved in the criminal revision, this Court is inclined to grant suspension of sentence and accordingly, this petition is allowed on the following conditions:

(i) the petitioner is directed to be enlarged on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Kulithalai;

(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 a month i.e., on the first working day of every month at 10.30 a.m. pending revision.

sd/-

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



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TO

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1 THE DISTRICT JUDGE, KARUR.

2 THE JUDICIAL MAGISTRATE NO.II, KULITHALAI, KARUR DISTRICT.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, KARUR DISTRICT.

4 THE INSPECTOR OF POLICE, KULITHALAI POLICE STATION,
KARUR DISTRICT.

5 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY DISTRICT.

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

+1 CC to M/s.K.ARUNRAJ, Advocate (SR-13089[I] dated 01/09/2023)

ORDER IN
CRL MP(MD) No.8783 of 2023
in
CRL RC(MD) No.616 of 2023
Date :01/09/2023

RS//SAR-(01.09.2023) 5P 8C

Madurai Bench of Madras High Court is issuing
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