



CRL MP(MD) No.11083 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Thursday, the Seventeenth day of August Two Thousand and Twenty Three

PRESENT

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

CRL MP(MD) No.11083 of 2023

in

CRL A(MD) No.636 of 2023

RAJA @ PUPPYRAJA

... PETITIONER/ APPELLANT/ SOLE ACCUSED

Vs

State Rep.by

THE INSPECTOR OF POLICE

SIVAKASI EAST POLICE STATION,

VIRUDHUNAGAR DISTRICT.

CRIME NO.1250 /2010.

... RESPONDENT/ RESPONDENT/ COMPLAINANT

Criminal Miscellaneous 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 by granting bail in S.C.No.115/2011 dated 28.06.2023 on the file of the Additional District and Sessions Court, Srivilliputhur till the disposal of this Criminal Appeal.

Prayer in CRL A(MD).636/2023 :

To call for the records set-aside the order of conviction passed by the learned Additional District and Sessions Court, Virudhunagar at Srivilliputur S.C.No.115/2011 dated 28.06.2023 and acquit the Appellant.

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 M/S.DHANACHANDRA PRAKASH.D, Advocate for the petitioner and of MR.M.VAIKKAM KARUNANITHI, Government Advocate (Crl.Side) on behalf of

<https://www.hmc.in.gov.in/judis>



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the Respondent, the court made the following order:-

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This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner in S.C.No.115 of 2011 on the file of the Additional District and Sessions Court, Srivilliputhur, till the disposal of this Criminal Appeal.

2. The petitioner said to have committed the offence under Section 302 IPC and the learned trial Judge passed the conviction under Section 304(ii) IPC and sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo 6 months simple imprisonment.

3. According to the prosecution, on 12.12.2010, at about 10.00 pm., at Thiruthangal to Pallapatti Road, the deceased driven his two wheeler in an inebriated state in a rash and negligent manner and caused nuisance to the public. He has not adhered the advice of the people, who were standing in the occurrence place. The same was questioned by the appellant and said to have pushed him. Hence, the deceased fell down from his two wheeler and sustained injuries and died. Pursuant to which, a complaint was preferred by the father of the deceased, which came to be registered in Crime No.1250 of 2010, initially, for offence under Sections 279 and 338 of IPC, thereafter, upon the version of P.W.4 Selvakumar, the case was altered into one under Section 302 of IPC.

4. During trial, the prosecution has examined 9 witnesses as P.W.1 to P.W.19



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and exhibited 16 documents as Ex.P.1 to Ex.P.16 and marked one Material Object as M.O.1. However, neither a witness was examined nor a document was exhibited on the side of the accused.

5. The petitioner has been convicted for the offence under Section 304(ii) of IPC in S.C.No.115 of 2011 dated 28.06.2023 by the learned Additional District and Sessions Judge, Virudhunagar at Srivilliputhur and sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo 6 months simple imprisonment.

6. The learned counsel for the petitioner submitted that the deceased himself driven his vehicle in a drunken state in a rash and negligent manner and caused nuisance and also criminal intimidated the entire village people. In the said circumstances, he himself fell down from his two wheeler inebriated condition and sustained injuries. In the result, he said to have died. The petitioner is no way responsible for the death of the deceased. Hence, he prayed to suspend the sentence imposed on him.

7. The learned Government Advocate (Crl.side) appearing for the respondent would contend that the Trial Court has rightly convicted the petitioner on the basis of the evidence and the petitioner has no prima facie case in this appeal.

8. This Court considered the rival submissions made on either side and perused



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the materials available on record.

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9. According to the petitioner, the deceased himself in drunken state driven the vehicle in a rash and negligent manner, due to which, he fell down from his vehicle and died. Therefore, this Court prima facie satisfied 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 in custody from 28.06.2023, hence, the petitioner is entitled to the relief of grant of suspension of sentence.

10. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with 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 Additional District and Sessions Judge, Srivilliputtur, Virudhunagar District.

(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 once in a



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month i.e., on first working day of every English calendar month at 10.30
a.m., till the disposal of the appeal.

sd/-
17/08/2023
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17/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SBN

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, SRIVILLIPUTTUR,
VIRUDHUNAGAR DISTRICT.

2 THE INSPECTOR OF POLICE, SIVAKASI EAST POLICE STATION,
VIRUDHUNAGAR DISTRICT.

3 THE SUPERINTENDENT, CENTRAL JAIL, MADURAI.

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

+1. C.C. to M/S.J.JEYAKUMARAN, Advocate SR.No.39037[F]

ORDER IN
CRL MP(MD) No.11083 of 2023
in
CRL A(MD) No.636 of 2023
Date :17/08/2023

PKP//SAR-(17.08.2023) 5P 6C
Madurai Bench of Madras High Court is issuing
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