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

Friday, the First day of September Two Thousand and Twenty Three
PRESENT

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

CRL MP(MD) No.12384 of 2023
in
CRL RC(MD)No.850 of 2023

SATHISHBABU

... PETITIONER/ ACCUSED

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
KULITHALAI POLICE STATION,
KARUR DISTRICT.
CRIME NO.393 OF 2018.

... 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 sentence in CA.No.6 of 2022 dt.23.12.2022 on the files of Honble Principal District and Sessions Judge,Karur which confirmed the judgment of the Learned Judicial Magistrate Court-II,Kulithalai vide CC.No.143 of 2018 dt.13.12.2021 pending disposal of this Criminal Revision.

Prayer in CRL RC(MD). 850/ 2023 :

To call for the records and set aside the order passed by the Honble Principal District and Sessions Judge,Karur in C.A.No.06 of 2022, dated 23.12.2022 by confirming the judgment in C.C.No.143 of 2018 on the file of Judicial Magistrate Court-II, Kulithalai order dated 13.12.2021 and allow the Revision petition.

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.AAYIRAM.K.SELVAKUMAR, Advocate for the petitioner and of Mr.R.SIVAKUMAR, Government Advocate(Crl.side) on behalf of the Respondent while admitting the CRL RC., the Court made the following order:-



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This petition is filed to suspend the sentence imposed on the petitioner vide C.A.No.06 of 2022 dated 23.12.2022 on the file of the Principal District and Sessions Judge, karur, which was confirmed vide Judgment of the Judicial Magistrate No-II, Kulithalai in C.C.No.143 of 2018 dated 13.12.2021, pending disposal of this Criminal Revision Case.

2. On 11.08.2018, at about 23.50 hrs., the defacto complainant along with her father was proceeding from East to West near Karur to Trichy National Highways Road, Kulithalai Santhivanam for unloading the river sand carried in the bullock cart. At that time, a tourist van bearing registration No.TN 55 AW 0456 came in a rash and negligent manner from West to East in opposite direction and hit against the Bullock cart, which came to its right side and as a result of the accident, father of the defacto complainant died on the spot and two bullocks worth Rs.70,000/- also died and the defacto complainant sustained simple injuries and passengers in the tourist van viz. P.W.4 and P.W.6 sustained simple injuries and P.W.3 and P.W.5 sustained grievous injuries. Therefore, a complaint was made against the petitioner. On the basis of the complaint, FIR came to be registered in Crime No.393 of 2018 for the offences under Sections 279, 337(3counts), 338(2 Counts), 429 and 304(A) of IPC. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 279, 337(3counts), 338(2 Counts), 429 and 304(A) of IPC.



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3. During trial, the prosecution has examined 9 witnesses as P.W.1 to P.W.9 and exhibited 17 documents as Ex.P.1 to Ex.P.17. However, neither a witness was examined nor a document was exhibited on the side of the accused.

4. The learned Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, convicted the petitioner/accused for the offence under Section 279 of IPC to pay a fine of Rs.1,000/- in default to undergo two weeks simple imprisonment, for the offence under Section 337 (3counts) to pay a fine of Rs.500/- each (totally Rs.1,500/-) in default to undergo two weeks simple imprisonment and for the offence under Section 338 (2 counts) to pay a fine of Rs.1,000/- (totally Rs.2,000/-) in default to undergo two weeks simple imprisonment and for the offence under Section 304(A) of IPC sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.3,000/- in default to undergo three months simple imprisonment. Challenging the above said conviction and sentence, the petitioner has preferred the Criminal Appeal in C.A.No.06 of 2022, before the learned Principal District Judge, Karur. The learned appellate Judge confirmed the conviction and sentence passed by the learned Judicial Magistrate No-II, Kulithalai, in C.C.No.143 of 2018, dated 13.12.2021 and dismissed the appeal. Aggrieved over the same, the petitioner filed present Criminal Revision Case along with the above



Miscellaneous Petition seeking suspension of sentence.

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5. The learned counsel for the petitioner would submit that the respondent police falsely registered the case against the petitioner. Further he would submit that the negligence is not on the part of the petitioner but it was on the part of the deceased, who drove the bullock tire cart, which proceeded with a load of sand from North to South on the Shanthivanam Salai. The appellate Court ought to have noticed that P.W.1 was seated on the back side of the bullock cart behind the heap of river sand and she deposed that on hearing the sound she saw the occurrence. Hence, he seeks suspension of sentence.

6. 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.

7. This Court has carefully considered the submission of learned counsel for the petitioner and also perused the materials available on record.

8. This Court considering the special circumstances of the case that P.W.1 was seated on the back side of the tire bullock cart behind the heap of river sand and she



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deposed that on hearing the sound, she saw the occurrence. Further, the learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. So this Court *prima facie* satisfied 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 in custody from 28.08.2023 in Central Prison, Trichirapalli, hence, the petitioner 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:-

(ii) 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 Judicial Magistrate No-II, Kulithalai;

(iii) 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



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(iv) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
01/09/2023

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04/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SBN

TO

- 1 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, KARUR.
- 2 THE JUDICIAL MAGISTRATE NO.II
KULITHALAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT.
- 4 THE INSPECTOR OF POLICE
KULITHALAI POLICE STATION,
KARUR DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION,(RECORDS)
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.AAYIRAM K.SELVAKUMAR, Advocate (SR-13095[I] dated 01/09/2023)

ORDER
IN
CRL MP(MD) No.12384 of 2023
in
CRL RC(MD)No.850 of 2023
Date :01/09/2023

SS/04/09/2023/7P/8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023