



CRL MP(MD) No.13526 of 2023

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

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

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

CRL MP(MD) No.13526 of 2023

AND

CRL RC(MD) No.1054 of 2023

MURUGANANDAN

... PETITIONER/PETITIONER

Vs

THE STATE OF TAMIL NADU,
THE INSPECTOR OF POLICE
VELAYUTHAMPALAYAM POLICE STATION,
KARUR DISTRICT.

CRIME NO.153 OF 2019.

IN C.C.No.24/2020

... 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 Suspend the Sentence passed in the Judgement of Conviction and Sentence dt.10.8.2023 in Crl.A.No.9 of 2023 on the file of the Learned District Judge,Karur confirming the Judgment of conviction and sentence dt.6.1.2023, on the file of the learned Judicial Magistrate No.2, Karur, in C.C.No.24 of 2020, pending disposal of the above criminal revision petition.

Prayer in CRL RC(MD). 1054/ 2023 :

To call for the records relating to the judgment of conviction and sentence dt.10.8.2023 in Crl.A.No.9 of 2023 on the file of the Learned District Judge, Karur confirming the Judgment of Conviction and Sentence dt.6.1.2023, on the file of the learned Judicial Magistrate No.2, Karur, in CC.No.24 of 2020 and set aside the same.

Order : This Writ petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.SHANMUGANATHAN VR, Advocate for the petitioner and of Mr.M.MUTHUMANIKKAM, Government Advocate(crl.side) on behalf of the Respondent, While admitting the Crl.RC, the court made the following order:-

This petition is filed to suspend the sentence imposed by the learned District

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Judge, Karur, in C.A.No.09 of 2023 dated 10.08.2023, confirming the conviction and sentence passed in C.C.No.24 of 2020 by the learned Judicial Magistrate No-II, Karur, dated 06.01.2023 and enlarge the petitioner on bail pending disposal of the main Criminal Revision Case.

2. The case of the complainant is that on 06.05.2019, at about 04.00 p.m, the defacto complainant's husband viz Selvarasu went to N.Pudhur in his two wheeler TVS XL SUPER bearing registration No.TN-88-B-7250 and thereafter, the said Selvarasu along with one Palanisamy and Gopi went to their relatives house for attending condolence at Velayuthampalayam. The defacto complainant's husband proceeded via Manmangalam in the above said two wheeler and the said Palanisamy and Gopi proceeded at about 100 meters behind the Selvarasu's two wheeler in the left side of the road near IOC petrol bunk, at that time, the petitioner/accused drove his vehicle bearing registration No.TN-23-CB-9972 in a rash and negligent manner in the same direction and dashed on the two wheeler driven by Selvarasu and as a result of the accident, the said Selvarasu sustained injuries on the left side of his head and on his two knees and he succumbed to the injuries.

3. On the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.153 of 2019 for the offences under Sections 279 and 304(A) of IPC. The respondent police, after completing the investigation, has laid a final



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report for the offences under Sections 279 and 304(A) of IPC.

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4. During trial, the prosecution has examined 5 witnesses as P.W.1 to P.W.5 and exhibited 8 documents as Ex.P.1 to Ex.P.8, and no material object was marked, whereas, the accused has neither adduced oral nor documentary evidence.

5. The learned Judicial Magistrate No-II, Karur, upon considering the evidences adduced and on hearing the arguments on both the sides, convicted the petitioner/accused for the offences under Sections 279, 304(A) of IPC. He was sentenced to undergo one year simple imprisonment for the offence under Section 304(A) of IPC and to pay a fine of Rs.2,000/-, in default, to undergo three months simple imprisonment for the offence under Section 304(A) of IPC and to pay a fine of Rs.1,000/- in default to undergo one month simple imprisonment for the offence under Section 279 of IPC. Challenging the above said conviction and sentence, the petitioner has preferred the Criminal Appeal in C.A.No.09 of 2023, before the learned Principal District Judge, Karur, the same was dismissed on 10.08.2023. Aggrieved over the same, he filed the Criminal Revision Case, along with this present Criminal Miscellaneous Petition before this Court.

6. The learned counsel for the petitioner would submit that the respondent police falsely registered the case against the petitioner. Further the Court below has wrongly convicted the petitioner believing the evidence of P.W.2 and P.W.3 who are



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the close relatives of the deceased. He would further submitted that the sketch prepared by the prosecution throws a serious doubt over the case. It shows that accident is opposite to petrol bunk and that car was riding towards Namakkal. He would state that there was no rash and negligence on the part of the petitioner/accused. Hence, he seeks suspension of sentence.

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 revision.

8. This Court has carefully considered the submissions on either side and also perused the materials available on record.

9. According to the petitioner, the prosecution has failed to establish the rash and negligent driving on the part of the petitioner/accused as per Section 304(A) of IPC. Further, he submitted that from the rough sketch itself, it is clear that there is an adjudicative issues regarding the rash and negligence. Further, he is in jail. Apart from that, there are certain infirmities and inconsistencies in this case and also certain contradictions in material particulars brought to the knowledge of this Court and hence, this Court prima facie feels 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



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petitioner herein is in custody from 25.09.2023, in Central Prison, Trichy. Hence, the

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petitioner 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 learned Judicial Magistrate No-II, Karur;
- (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 month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
29/09/2023

/ TRUE COPY /

29/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SBN
TO

1 THE DISTRICT JUDGE, KARUR.

2 THE JUDICIAL MAGISTRATE NO.2, KARUR.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, KARUR DISTRICT.

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4 THE SUPERINTENDENT, CENTRAL JAIL, TRICHY.

5 THE INSPECTOR OF POLICE

VELAYUTHAMPALAYAM POLICE STATION, KARUR DISTRICT.

6 THE ADDITIONAL PUBLIC PROSECUTOR,

MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE SECTION OFFICER,

CRIMINAL SECTION,

MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.V.R.SHANMUGANATHAN, Advocate (SR-14288[I] dated

27/09/2023)

ORDER IN

CRL MP(MD) No.13526 of 2023

Date :29/09/2023

SA/SAR. /29.09.2023/6P/9C

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