



CRL MP(MD) No.15077 of 2023

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

Monday, the Thirtieth day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL.M.P(MD).Nos.15077 and 15078 of 2023
in
CRL.R.C(MD).No.1183 of 2023

M.SARAVANAPERUMAL

... PETITIONER/ PETITIONER
IN BOTH PETITIONS

Vs

STATE REP. BY
THE INSPECTOR OF POLICE
NATHAMPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CR.NO.20/2014

... RESPONDENT/ RESPONDENT
IN BOTH PETITIONS

PRAYER IN CRL.M.P(MD).No.15077 of 2023

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 imposed in C.C.no.44/2015 dt 19.11.2020 on the file of the learned Judicial Magistrate No.1 Srivilliputtur and confirmed in C.A.No.65/2020 dt 21.08.2023 on the file of the Additional District and Sessions Judge srivilliputtur.

Prayer in CRL MP(MD). 15078/ 2023 :

To Exempt the petitioner from surrender in connection with conviction order passed by the learned Judicial Magistrate no.1 srivilliputhur in C.C.No.44/2015 dt 19.11.2020 and the same was concurrently confirmed by the learned district sessions judge srivilliputtur.



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Prayer in CRL RC(MD). 1183/ 2023 :

To call for the records of the impugned order passed in CC No.44/2015 dt 19.11.2020 on the file of the learned Judicial Magistrate No.I Srivilliputhur and confirmed in CA No.65/2020 dt 21.08.2023 on the file of the Additional District and Sessions judge srivilliputtur set aside as illegal.

Order : These petitions coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of RM.ARUN SWAMINATHAN, Advocate for the petitioner in both petitions and of MR.K.SANJAY GANDHI, Government Advocate on behalf of the Respondent in both petitions, while admitting the criminal revision case, the court made the following order:-

These Criminal Miscellaneous Petitions are filed to suspend the sentence passed by the learned Judicial Magistrate No.I, Srivilliputhur, in C.C.No.44 of 2015, dated 19.11.2020, which was confirmed in Criminal Appeal No.65 of 2020, dated 21.08.2023 by the learned Additional District and Sessions Judge, Srivilliputhur, pending disposal of the Criminal Revision Case and for exemption of his surrender pursuant to the aforesaid Judgment.

2. The case of the prosecution is that on 08.02.2014 at about 08.30 a.m., the deceased was riding his Hero Honda Splendor two-wheeler bearing Registration No.TN 67A V0650 in the Madurai to Tenkasi National Highway in the North to South direction near Alagapuri Junction Road on the eastern side of the road and that the accused who was driving the Maxi cab 407 Van bearing Registration No.TN 67A



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AZ3690 from the South to North direction had driven the Van in a rash and negligent manner and proceeded towards the eastern side of the road on the wrong side and hit against the bike of the deceased and the deceased sustained grievous injuries and succumbed to the injuries and he died. Therefore, a case was registered by the respondent police against the petitioner in crime No.20 of 2014. The respondent police, after completing the investigation, has filed the final report for the offences under Sections 279, 338 and 304(A) of IPC. The case was taken on file in C.C.No.44 of 2015 on the file of the learned Judicial Magistrate No.1, Srivilliputhur and charge was framed against the petitioner under Sections 279 and 304(A) of IPC.

3. The learned counsel appearing for the petitioner submitted that after hearing both side arguments, the petitioner has been convicted by the trial Court for the alleged offence under Section 279 of Indian Penal Code and sentenced him to undergo simple imprisonment for a period of six months and to pay fine amount of Rs.500/- (Rupees Five Hundred only) in default to undergo simple imprisonment for a period of one month and for the offence under Section 304(A) of Indian Penal Code, he was sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.1,000/- (Rupees one Thousand only), in default to undergo simple imprisonment for a period of three months in C.C.No.44 of 2015, on the file of the



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learned Judicial Magistrate No.I, Srivillipputhur.

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4. The learned Additional District and Sessions Judge, Srivillipputhur, confirmed the conviction and sentence and dismissed the Criminal Appeal No.65 of 2020, dated 21.08.2023. Challenging the same, the Criminal Revision Case has been filed before this Court along with these miscellaneous petitions.

5. It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

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 opposed to grant suspension of sentence.

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

8. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The



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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, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision with the following directions:-

(i) The petitioner is directed to be enlarged on bail on condition that 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.I, Srivilliputhur.

(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



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month i.e., on the first working day of every English calendar month
at 10.30 a.m., until further orders.

10. The petitioner is not exempted from surrendering before the trial Court and the petitioner is directed to surrender before the learned Judicial Magistrate No.I, Srivilliputhur, within a period of two weeks from the date of receipt of copy of this order. Hence, CrI.M.P.(MD)No.15078 of 2023 is dismissed.

sd/-
30/10/2023

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/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

- 1 THE JUDICIAL MAGISTRATE NO.1 SRIVILLIPUTTUR.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, SRIVILLIPUTTUR.
- 3 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, SRIVILLIPUTHUR.
- 4 THE INSPECTOR OF POLICE
NATHAMPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.



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5 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.
(CALL FOR THE RECORDS)

+1 CC to M/s.R.M.ARUN SWAMINATHAN, Advocate (SR-15669[I] dated
30/10/2023)

ORDER
IN
CRL.M.P(MD)..Nos.15077 and 15078 of 2023
in
CRL.R.C(MD).No.1183 of 2023
Date :30/10/2023

SSA/JGB/31.10.2023/7P/8C

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