



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

Wednesday, the Eleventh day of January Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.659 of 2023
IN
CRL RC(MD) No.45 of 2023

BALAMURUGAN

... PETITIONER/APPELLANT/2ND ACCUSED

Vs

State Rep.by
THE SUB INSPECTOR OF POLICE
SEITHUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.54 OF 2011)

... RESPONDENT/RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the conviction and sentence imposed in C.A.No.78 of 2017 on the file of the Additional District and Sessions Court, Virudhunagar District at Srivilliputtur dated 22.08.2022 in modify the judgment made in CC.No.280 of 2011 on the file of the learned Judicial Magistrate Court, Rajapalayam dated 11.05.2017.

Prayer in CRL RC(MD). 45/ 2023 :

To call for the records pertaining to the case in Crl.A.No.78 of 2017 on the file of the Additional District and Sessions Court, Virudhunagar District at Srivilliputtur and CC.No.280 of 2011 on the file of the learned Judicial Magistrate Court, Rajapalayam and set aside the conviction and sentence passed in Crl.A.No.78 of 2017 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputtur dated 22.08.2022 in modifying the judgment made in C.C.No.280 of 2011 on the file of the learned Judicial Magistrate Court, Rajapalayam dated 11.05.2017 and to allow this criminal revision.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.KARUNANIDHI.R, Advocate for the petitioner and of MR.M.SAKTHI KUMAR, 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 Court of the learned Additional District and Sessions Judge, Srivilliputhur, in Crl.A.No.78 of 2017, dated 22.08.2022, in confirming the conviction and sentence imposed by the learned Judicial Magistrate, Rajapalayam, in C.C.No.280 of 2011, dated 11.05.2017, pending disposal of the Criminal Revision.

2.The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court for the alleged offence under Section 324 of IPC and sentenced him to undergo 6 months simple imprisonment and imposed a fine of Rs.2,000/- and for the alleged offence under Section 506(ii) of IPC and sentenced him to undergo 6 months simple imprisonment. The sentences were ordered to run concurrently and set off under Section 428 of Cr.P.C. was also ordered. The appellate Court has modified the sentences into 3 months respectively.

3.The learned counsel appearing for the petitioner submitted that the weapon that has been alleged to be used in occurrence has not been recovered. That point was not considered by the trial Court as well as the appellate Court. He also pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars.

4.Mr.M.Sakthi Kumar, learned Additional Public Prosecutor appearing for State Government (Crl.side) submitted that there are enough materials available on record against the petitioner and hence he strongly opposed to grant suspension of sentence.

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

6.Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision and 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 Judicial Magistrate, Rajapalayam, and on further condition that the petitioner shall appear before the concerned Court once in a week i.e., on the first working day of every week at 10.30 a.m. pending revision.

sd/-

11/01/2023

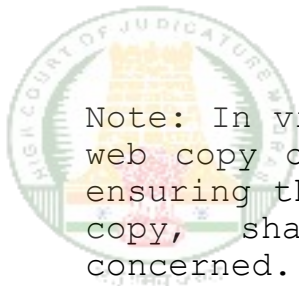
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/01/2023

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

TM

<https://www.mhc.tn.gov.in/judis>



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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- TO
- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, VIRUDHUNAGAR DISTRICT.
 - 2 THE JUDICIAL MAGISTRATE, RAJAPALAYAM.
 - 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
 - 4 THE SUB INSPECTOR OF POLICE, SEITHUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S. KARUNANIDHI.R Advocate SR.No.596[I]

ORDER
IN
CRL MP(MD) No.659 of 2023
IN
CRL RC(MD) No.45 of 2023
Date :11/01/2023

RS/SSS/SAR.(20.01.2023) 3P-7C