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Crl.M.P.No.12226 of 2024
and
Crl.R.C.No.1450 of 2024

Crl.M.P.No.12226 of 2024
in Crl.R.C.No.1450 of 2024

SUNDER MOHAN,J.

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner/accused by judgment dated 29.08.2019 passed in C.C.No.44 of 2014 by the learned Judicial Magistrate, Fast Track Court level, Kallakurichi and confirmed by the learned III Additional Sessions Judge, Villupuram @ Kallakurichi vide judgment dated 08.02.2021 in C.A.No.71 of 2019, pending disposal of the Criminal Revision Case.

2. The case of the prosecution is that the petitioner/accused had driven the government bus bearing Reg. No. TN-30-N-0798 in a rash and negligent manner and dashed against a stationary lorry bearing Reg. No. TN-30-AB-4599 parked on the left side of the road, as a result of which one of the passengers in the bus sustained fatal injury.



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3. The learned counsel for the petitioner would submit that the accident took place at 1.00 a.m.; that the allegation is that the petitioner who was driving the bus had dashed against a stationary lorry that was parked in the road; that the evidence would show that there is no indicator in the lorry to suggest that it was parked and since it was dark, the driver dashed against the vehicle; no negligence can be attributed to him and he prayed for granting suspension of sentence to the petitioner.

4. The learned Additional Public Prosecutor, *per contra*, submitted that the concurrent findings of the Court below cannot be termed as perverse and it is based on the evidence on record and submitted that no ground has been made out by the petitioner for suspension of sentence.

5. Heard both sides.

6. From the evidence of the eye-witnesses, it is not clear as to whether the lorry had any indicators to suggest that it was parked. The evidence of the



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lorry driver would further show that he had placed a stone to indicate that he was changing the tyres of the lorry.

7. Considering the above evidence on record and since there are several arguable points in the revision, this Court is of the view that the sentence imposed on the petitioner can be suspended pending disposal of the revision.

8. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner is suspended on the following conditions till the disposal of the above Criminal Revision:

(a) The petitioner shall execute 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 trial Court

(b) The petitioner shall appear before the Trial Court on the first working day of a month at 10.30 a.m., until the disposal of the revision and if he is not able to appear before the Trial Court on



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that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

(c) In the event of failure on satisfying the above conditions, this order would stand automatically cancelled.

05.11.2024
(2/2)

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To

- 1.The Judicial Magistrate, Fast Track Court level,
Kallakurichi.
- 2.The Additional Sessions Judge,
Villupuram @ Kallakurichi.
- 3.The Public Prosecutor,
High Court, Madras.



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