



Crl.M.P.(MD).No.2808 of 2024

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

Thursday, the Fourth day of April Two Thousand and Twenty Four

PRESENT

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

Crl.M.P.(MD).No.2808 of 2024
in
Crl.A.(MD).No.486 of 2022

CHINNAN

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
USILAMPATTI TALUK POLICE STATION,
MADURAI DISTRICT.
CR. NO. 147 OF 2016

... 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 execution of sentence in Special Calendar case no. 11/2021 dt. 27.04.2022 on the file of the learned Special District Judge to deal with the cases of offences in contravention of the provisions of the Mines and Minerals (D and R) Act, 1957, Madurai, pending disposal of the Criminal Appeal.

Prayer in Crl.A.(MD).No.486 of 2022:

To admit this appeal on file and call for the records from the Lower Court and set aside the Judgment of the Lower Court passed by the Learned Special District Judge to deal with the cases of offences in contravention of the provisions of the Mines and Minerals (D& R) Act, 1957, Madurai in Special Calendar Case No.11/2021 dated 27.04.2022 by allowing this appeal.



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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.RAVI. K, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate(Crl.side) on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This petition has been filed to suspend the sentence imposed on the petitioner by the learend Special Judge to deal with the cases of offences in contravention of the provisions of the Mines and Minerals (D&R) Act, 1957, Madurai in C.C.No.11 of 2021 dated 27.04.2022.

2. The case of the prosecution is that on 06.06.2016, at about 11.00 p.m, P.W.1, P.W.2 and P.W.4 were on the vehicle checkup at Usilampatti to Boothipuram road, the petitioner and another accused illegally transported one unit of river sand in the tractor bearing registration No.TN-57-6847 (Swaraj) attached with a trailer bearing registration No.TN-58-D-0238 and hence, they stopped the vehicle. At that time, the petitioner was arrested and other person was escaped from the scene of occurrence. Thereafter, the respondent police registered a case in Crime No.147 of 2016 against both the accused for the offences under Sections 379 of IPC r/w 21(1)(v) of Mines and Minerals (Development & Regulation) Act 1957.



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3. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 379 of IPC r/w 21(1)(v) of Mines and Minerals (Development & Regulation) Act 1957. The same was taken on file in Spl.C.C.No.11 of 2021, on the file of the learned Special Judge, Special Court for MMDR Act, Madurai.

4. During trial, the prosecution has examined 9 witnesses as P.W.1 to P.W.4 and exhibited 4 documents as Ex.P.1 to Ex.P.4 and marked 1 Prosecution side Material Object as P.M.O.1. However, neither a witness was examined not a document was exhibited on the side of the accused.

5. The learned Special Judge, Special Court for MMDR Act, Madurai, after full-fledged trial, has passed the judgment in Spl.C.C.No.11 of 2021, dated 27.04.2022, acquitted the second accused and convicted the first accused/petitioner herein for the offence under Section 379 of IPC and sentenced them to undergo 1 year Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 3 months Rigorous Imprisonment. Aggrieved over the above said conviction and sentence, imposed by the Courts below, the petitioner preferred the present Criminal Appeal along with the present Miscellaneous Petition seeking for suspension of sentence.



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6. The learned counsel for the petitioner would submit that the learned trial Judge after acquitting A2, on the same evidence, erroneously convicted the petitioner for the charged offence. The prosecution failed to prove the seized sand is river sand. The learned counsel further noted the several infirmities in the prosecution case and the material contradictions in between the prosecution witnesses. He would also submit that the petitioner is confined in Central Jail, Madurai, from 14.03.2024. Hence, he seeks suspension of sentence.

7. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner. The learned trial Judge on the basis of the evidence of P.W.1, P.W.2 and P.W.4 correctly convicted the appellant and hence, he strongly opposed this petition.

8. This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

09. The trial Court framed the charge against the petitioner and of IPC r/w

Section 21(1)(v) of Mines and Minerals (Development & Regulation) Act 1957. The

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learned trial Judge acquitted the other person namely, A2 and convicted the petitioner/A1 alone. The respondent police handed over the seized sand with the delay of 19 days from the date of occurrence. P.W.2, in his deposition, has not clearly deposed about the seized sand particulars. Therefore, this Court prima facie satisfied that there are arguable points involved in this Criminal Appeal and further the criminal appeal 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 was arrested on 14.03.2024 and confined in Central Prison, Madurai, hence, the petitioner is entitled to the relief of grant of suspension of sentence.

10. Accordingly, the relief of suspension of sentence is granted to the petitioners on the following conditions:-

(i) The petitioners 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 Special Court for MMDR Act, Madurai.

(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



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(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/-
04/04/2024

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08/04/2024
Sub-Assistant Registrar (Vigilance)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SBN

TO

- 1.THE JUDGE,
SPECIAL COURT FOR MMDR ACT,
MADURAI.
- 2.THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON,
MADURAI.
- 3.THE INSPECTOR OF POLICE
USILAMPATTI TALUK POLICE STATION,
MADURAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



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THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
(CALL FOR THE ORIGINAL REPORTS)

+1 CC to M/s.K.RAVI, Advocate (SR-4191[I] dated 04/04/2024)

ORDER
IN
Crl.M.P.(MD).No.2808 of 2024
in
Crl.A.(MD).No.486 of 2022
Date :04/04/2024

RK/ (08/04/2024) 7P / 7C

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17/07/2023