



CRL.M.P.(MD)No.6541 of 2024

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

Monday, the First day of July Two Thousand and Twenty Four

PRESENT

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

CRL.M.P.(MD)No.6541 of 2024
in
CRL.R.C.(MD)No.343 of 2024

S.ARUMUGAM

... PETITIONER/PETITIONER

Vs

THE INSPECTOR OF POLICE
VACHAKARAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CRIME NO. 110/2013

... 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 imposed by the Additional District and Sessions Court, Virudhunagar, Virudhunagar District in C.A.No.35/2019 dated 16.10.2023 in confirming the conviction and sentence imposed by the Judicial Magistrate Court No.I, Virudhunagar, Virudhunagar District in C.C.No.142/2013 dated 04.09.2019 pending disposal of the Criminal Revision Petition.

Prayer in CRL RC(MD). 343/ 2024 :

To call for the records and set aside the conviction and sentence imposed by the Court of the Additional District and Sentence imposed by the court of the Additional District Session Judge Virudhunagar Virudhunagar District in Crl.A.No.35/2019 on 16.10.2023 in confirming the conviction and sentence imposed by the Judicial Magistrate Court No.1, Virudhunagar, Virudhunagar District in C.C.No.142 of 2013 on 04.09.2019 and allow this criminal revision petition.



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WIPROPT
Order: This Civil 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.M.JOTHI BASU, Advocate for the petitioner and of MR.S.RAVI, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This petition is filed to suspend the sentence imposed on the petitioner in C.A.No.35 of 2019 dated 16.10.2023 on the file of the Additional District and Sessions Court, Virudhunagar, Virudhunagar District, in confirming the conviction and sentence imposed by the learned Judicial Magistrate Court No.1, Virudhunagar, Virudhunagar District in C.C.No.142 of 2013, dated 04.09.2019, pending disposal of this Criminal Revision Case.

2. The case of the prosecution is that the deceased Mariappan is the owner of the 407 load vehicle bearing Registration No.TN-34-9617 and he was residing in Pollachi. P.W.1 namely Packiaraj was the driver of the vehicle. On 03.06.2013 at about 06.00 a.m, they loaded jaggery from Neikkarapatti near Palani and was on the way to Tirunelveli, in Virudhunagar-Sattur four way near Pattamputhur junction, the left rear tyre got punctured. Hence, P.W.1 parked the vehicle on the side of the road. Both P.W.1 and the deceased were replacing the tyre, the deceased Mariappan was lying under the vehicle operating the jack. At that time, the accused drove the lorry bearing registration No.TN-04-P-3525 from north towards south in a rash and negligent



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manner and hit on the backside of the stationary vehicle. In the accident, the deceased Mariappan sustained grievous injuries and died on the spot. Therefore, a complaint was made against the petitioner. On the basis of the complaint given by P.W.1, FIR came to be registered in Crime No.110 of 2013 for the offences under Sections 304-A of IPC. The respondent police, after completing the investigation, has laid a final report for the offences under Section 304(A) of IPC.

3.During trial, the prosecution has examined 11 witnesses as P.W.1 to P.W.11 and exhibited 8 documents as Ex.P.1 to Ex.P.8. However, neither a witness was examined nor a document was exhibited on the side of the accused.

4.The learned Trial Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, convicted the petitioner/accused for the offence under Section 304(A) of IPC and sentenced him to undergo 1 year Simple Imprisonment and ordered to pay a sum of Rs.2,000/- fine in default to undergo one month Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner has preferred the Criminal Appeal in C.A.No.35 of 2019, before the learned Additional District and Sessions Judge, Virudhunagar. The learned appellate Judge confirmed the conviction and reduced the sentence to 6 months Simple



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Imprisonment imposed by the learned Judicial Magistrate Court No.I, Virudhunagar, in C.C.No.142 of 2013 No-II, Kulithalai, 04.09.2019 and partly allowed the appeal. Aggrieved over the same, the petitioner filed present Criminal Revision Case along with the above Miscellaneous Petition seeking suspension of sentence.

5. The learned counsel for the petitioner would submit that the respondent police falsely registered the case against the petitioner. Further, he would submit that the negligence is not on the part of the petitioner but it was on the part of the deceased, who failed to switch on indicator to show a fact that the vehicle was parked in the place. He further submitted that there is no ingredients to prove the offence under Section 304(A) of IPC from the defence witness and the defence document. Hence, he seeks for the suspension of sentence.

6.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 appeal.

7. This Court has carefully considered the submission of learned counsel for the petitioner and also perused the materials available on record.



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8. Considering the period of incarceration, 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.I, Virudhunagar, Virudhunagar District;

(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/-
01/07/2024

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02/07/2024
Sub-Assistant Registrar (W)
Madurai Bench of Madras High Court,
Madurai - 625 023.

rjr

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



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TO COPY

- 1.THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR,
VIRUDHUNAGAR DISTRICT
- 2.THE JUDICIAL MAGISTRATE NO.I,
VIRUDHUNAGAR,
VIRUDHUNAGAR DISTRICT;
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.
- 4.THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.
- 5.THE INSPECTOR OF POLICE
VACHAKARAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-7207[I] dated 01/07/2024)

ORDER
IN
CRL.M.P.(MD)No.6541 of 2024
in
CRL.R.C.(MD)No.343 of 2024
Date :01/07/2024



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RK (02/07/2024) 7P / 8C

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