

Petitioner Vs. Respondent

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Court : Chennai

Decided On : Oct-24-2016

Judge : M. Venugopal

Appeal No. : Crl.M.P.No. 10490 of 2016 in Crl.A.No. 719 of 2016

Appellant : Petitioner

Respondent : Respondent

Judgement :

M. Venugopal, J.

1. Heard Mr.A.Padmanaban, Learned Counsel for the Petitioner/ Appellant and Ms.M.F.Shabana, Learned Government Advocate (Crl. Side) for the Respondent/Complainant.

2. The Petitioner/Appellant/Accused has focused the instant Criminal Appeal before this Court as against the Judgment dated 21.09.2016 in S.C.No.85 of 2016 passed by the Learned District and Sessions Judge, Mahila Fast Track Court, Erode.

3. It comes to be known that the Petitioner/Appellant/Accused was found guilty in respect of an offence under Section 306 I.P.C. and was awarded with a punishment of Rigorous Imprisonment of 10 years and he was also directed to pay

a fine of Rs.50,000/- and in default of payment of said fine, he was further imposed with Simple Imprisonment for a period of two months, by means of the Judgment dated 21.09.2016 passed by the trial Court.

4. Pending this Criminal Appeal (filed by the Petitioner/ Appellant), the Petitioner/Appellant has projected Crl.M.P.No.10490 of 2016 praying for passing of an order by this Court to suspend the sentence of imprisonment of 10 years Rigorous Imprisonment etc. imposed by the trial Court in S.C.No.85 of 2016, through Judgment dated 21.09.2016.

5. At this stage, it is represented on behalf of the Petitioner/ Appellant that a portion of the fine amount of Rs.30,000/- was paid by the Petitioner/Appellant on 20.10.2016, as directed by this Court through its order dated 18.10.2016 in Crl.M.P.No.10490 of 2016 in Crl.A.No.719 of 2016.

6. In response, the Learned Government Advocate (Crl. Side) contends that in the main case, on behalf of the Prosecution, the trial Court had examined witnesses P.W.1 to P.W.13 and marked Exs.P.1 to P.12. However, no one was examined as a witness on the defence side and no document was marked. In fact, the stand of the Respondent/State is that the trial Court, on an appreciation of the entire oral and documentary evidence available on record, come to the resultant conclusion that the Petitioner/Appellant/Accused was guilty in respect of an offence under Section 306 I.P.C. and imposed necessary punishments thereto and the same is free from any flaw.

7. It is to be noted that an 'Appeal' is a continuation of original proceedings of the trial Court in Law. In fact, in the instant case, the Petitioner/Appellant/Accused has exercised his statutory right of preferring the Criminal Appeal No.719 of 2016, as an aggrieved person, as against the Judgment of the trial Court dated 21.09.2016 in S.C.No.85 of 2016.

8. In this connection, this Court has perused the various grounds raised on behalf of the Petitioner/Appellant in Crl.A.No.719 of 2016 (vide Memorandum of Grounds of Criminal Appeal) and is of the earnest view that the Petitioner/Appellant, has, indeed, raised some arguable/substantial points which are to be looked into by this

Court in detail at the time of final hearing of the Criminal Appeal.

9. In as much as the Petitioner/Appellant has preferred the instant Crl.A.No.719 of 2016, as an affected/aggrieved person, being dissatisfied with the Judgment of the trial Court dated 21.09.2016 in S.C.No.85 of 2016 and this Court, keeping in mind a prime fact that an 'Appeal' is a continuation of original proceedings in Law and also bearing in mind yet another fact that the present Criminal Appeal is not likely to be heard in the near future, and also considering the attendant facts and circumstances of the present case in a conspectus fashion, at this stage, this Court is inclined to suspend the substantial sentence of imprisonment alone and orders the release of the Petitioner/Appellant/Accused on his executing a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties for a like sum to the satisfaction of the Learned District and Sessions Judge, Mahila Fast Track Court, Erode and on further condition that he shall appear before the said Court on the First Working day of every English calendar month at 11.30 a.m. without fail till the disposal of the Criminal Appeal. Further, the Petitioner/Appellant is directed to pay/deposit the balance of Rs.20,000/- (Rupees Twenty Thousand only) towards fine imposed by the trial Court to the credit of S.C.No.85 of 2016 within 10 days from today. Moreover, the trial Court is directed to inform this Court as to the factum of payment of balance fine amount of Rs.20,000/-, as ordered by this Court, through a Report addressed to the Registrar Judicial of this Court without any delay whatsoever, within one week from the date of payment deposited by the Petitioner/Appellant/ Accused.

10. Accordingly, the Crl.M.P.No.10490 of 2016 is ordered.

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