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Crl.M.P.No.11318 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2026

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl. M.P. No. 11318 of 2026

in

Crl. A. No. 790 of 2026

Sivakumar

... Petitioner

Vs.

State Rep., by,
The Inspector of Police,
Pollachi West Police Station,
Coimbatore District.
(Crime No. 568 of 2010)

... Respondent

To suspend the sentence and grant bail to the petitioner /
appellant for the conviction and sentence imposed in S.C.No.54 of 2018
dated 23.06.2026 on the file of the Sessions Judge, Bomb Blast Court,
Coimbatore pending disposal of the above appeal.

For Petitioner : Mr. S. Ashok Kumar, Senior Counsel
for Mr. K. Gandhi Kumar

For Respondent : Mr. Durai Gunasekaran,
Government Advocate (Crl.Side)
Assisted by Mr. M. Arul Raj



CrI.M.P.No.11318 of 2026

ORDER

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The petitioner / A1 in S.C. No. 54 of 2018 was convicted by the trial Court by judgment dated 23.06.2026, for offences under Sections 365 r/w Section 34 r/w 109 IPC and 395 r/w Sections 34 and 109 IPC. For the offence under Section 365 r/w Sections 34 and 109 IPC, he was sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs.1,00,000/-, in default one year simple imprisonment. For the offence under Section 395 r/w 34 r/w 109 IPC, he was sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.1,00,000/-, in default one year simple imprisonment. Aggrieved by the said judgment, the petitioner has filed this suspension of sentence petition.

2. The case of the prosecution is that there were originally six accused in the case. All the accused, in furtherance of their common intention, formed an unlawful group to extort money from innocent persons staying in lodges at Pollachi for business purposes. It is alleged that A1 misused his official position and influenced his subordinates, namely, the Forest Guard and the Forest Extension Officer, to threaten such persons with false cases under the Forest Act and extort money from them.

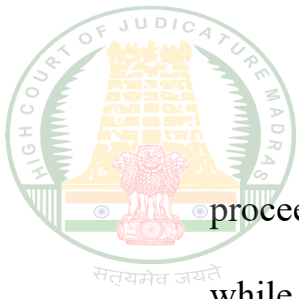
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2.1. In this case, the prosecution alleges that PW1 had come to purchase sandalwood logs or a monitor lizard (Mannuli Paambu). The accused threatened that he will be arrested and prosecuted under the Forest Act unless he paid a huge sum of money. On 28.10.2009, at about 3.00 a.m., the defacto complainant, Gandhi, son of Thanan, a real estate businessman from Chennai, along with his car driver, Balu, and his friend, Chandran, was staying in Room No.101 of KDK lodge, Pollachi. At that time, A1 to A6 entered the lodge, questioned the defacto complainant, took him to the Range Office, wrongfully detained him and by extortion, took away a gold chain, ring, other valuables and cash of Rs.2,00,000/- from him.

2.2. Based on the complaint lodged by the defacto complainant, a case in Crime No.568 of 2010 was registered for the offences under Sections 365, 342, 392 IPC, alternatively under Sections 365, 342, 395 and 120(b) IPC r/w Sections 34 and 109 IPC. On completion of the investigation, charge sheet filed. During trial, the prosecution examined 14 witnesses, marked 19 documents and produced MO1 to MO5. On the side of the defence, DW1 was examined and Ex.D1 was marked. During the pendency of the case, A5 and A6 absconded and therefore, the case against them was split up. The trial



proceeded against A1 to A4. On conclusion of the trial, A1 was convicted, while A2 to A4 were acquitted.

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3. The learned Senior Counsel for the petitioner submitted that the alleged occurrence is said to have taken place on 28.10.2009, whereas the complaint came to be lodged nearly one year thereafter, on 23.09.2010. According to the prosecution, on 29.10.2009, at about 3.00 a.m., PW10 and PW12, who were serving as the Sub-Inspector of Police and Head Constable attached to Pollachi West Police Station, along with PW2 and PW14, the driver and Forester of the Forest Department, went to Room No.101 of KDK Lodge, where the defacto complainant / PW1 was staying. PW1 was questioned regarding the alleged smuggling of sandalwood and dealing in prohibited and endangered species. Thereafter, he was taken to the Range Office, where the petitioner is alleged to have questioned him and extorted his gold articles, other valuable and cash. Thereafter, PW1 was remanded in connection with the forest case.

3.1. It was further submitted that, after being released on bail, PW1 demanded the return of his cash and gold articles from the petitioner. While the gold articles were allegedly returned, only a sum of Rs.45,000/- was paid



toward the cash. Thereafter, the present complaint came to be lodged.

According to the learned Senior Counsel, the prosecution story is highly artificial and has been falsely foisted against the petitioner. It was further contended that the defacto complainant neither, during his remand in the forest case nor thereafter, submitted any representation or complaint to any higher official regarding the alleged incident of 29.10.2009. It was also submitted that PW1 was apprehended in the forest case on 29.10.2009 at about 3.00 a.m., and was produced before the Magistrate for remand on the very same day.

3.2. The learned Senior Counsel further submitted that, on the same set of facts, A2 to A4 have been acquitted, whereas the petitioner alone has been convicted by invoking Sections 34 and 109 IPC, which, according to the learned Senior Counsel, is legally unsustainable. It was contended that Section 34 IPC contemplates the commission of an offence by more than one person in furtherance of a common intention, whereas Section 109 IPC deals with abetment. It was argued that one person cannot abet himself and therefore, the simultaneous invocation of Sections 34 and 109 IPC against the petitioner is improper.

3.3. It was further submitted that the trial Court failed to consider the



above legal principles and convicted the petitioner on the testimony of PW1, who is an interested and tainted witness. PW2 is the driver who accompanied the petitioner to the lodge, PW3 is the witness to the observation mahazar, PW4, the Forest Range Officer, has only spoken about receiving information regarding the illegal trafficking of sandalwood and proceeding to the lodge along with PW2, PW5, VAO, attested the seizure of MO1 to MO4 and PW9, the Bank Manager, has spoken about Ex.P9 cheque alleged to have been issued by A3 towards repayment of the extorted amount. The remaining witnesses are official witnesses who have deposed regarding the investigation. PW13, who has been examined to corroborate PW1, is also a broker and a friend of PW1.

3.4. The learned Senior Counsel further submitted that the trial Court failed to appreciate that PW1 had animosity against the petitioner, who, being the Forest Ranger, was the competent authority to initiate proceedings against forest offenders. It was also pointed out that the forest case against PW1 is still pending in STOR.No.29 of 2009. Further, there was an inordinate delay of more than one year in lodging the complaint, which has not been explained. It was also contended that the trial Court erred in directing the sentences to run consecutively and that the ingredients of the



offences under Sections 365 and 395 IPC are not made out.

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3.5. The learned Senior Counsel further submitted that no witness from KDK Lodge was examined and no documents produced to establish that the defacto complainant stayed in KDK Lodge or that the petitioner and the other accused had forcibly taken him from the lodge.

4. The learned Government Advocate opposed the petitioner's contention and submitted that, though the alleged occurrence took place on 28.10.2009 and the complaint came to be lodged only on 23.09.2010, the delay has been explained. It was contended that, as the persons involved in the alleged kidnapping and extortion were officials from the Forest Department and the Police Department, the defacto complainant took some time to gain confidence and thereafter lodged the complaint.

4.1. The learned Government Advocate further submitted that PW1 has clearly spoken about the overt acts committed by each of the accused and that the evidence of PW13 corroborates the testimony of PW1. It was also submitted that the fact that PW1 was forcibly taken from KDK Lodge is not in dispute. The witnesses to the confession and seizure have also clearly spoken about the role played by each of the accused.



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4.2. It was further contended that the pendency of the forest case against PW1 would not justify or give a licence to the petitioner to commit the offences of kidnapping and extortion. The learned Government Advocate also submitted that the petitioner was involved in another case of a similar nature in S.C.No.282 of 2012 for an offence under Section 395 IPC, but he fairly submitted that the said case ended in acquittal by judgment dated 16.10.2023.

4.3. The learned Government Advocate further submitted that all the contentions now raised by the learned Senior Counsel for the petitioner had already been raised before the trial Court and were duly considered. On proper appreciation of the oral and documentary evidence, the trial Court found sufficient materials to convict the petitioner. The acquittal of A2 to A4 will not enure to the benefit of petitioner.

5. Considering the submissions and on perusal of the materials, it is seen that the defacto complainant / PW1 is an forest offender, against whom, a case has been registered in STOR.No.25 of 2009, which is still pending. The alleged occurrence is said to have taken place on 28.10.2009, whereas the complaint came to be lodged only on 23.09.2010, nearly one year



thereafter. It is also seen that A2 to A4 have been acquitted of all charges. In such circumstances, the conviction of the petitioner for the offences under Sections 365 and 395 IPC by invoking Sections 34 and 109 IPC will not be sustainable. It is further seen that the petitioner, being a Forest Ranger, was the competent authority to initiate proceedings in respect of forest offences and that the forest case against PW1 is still pending. Therefore, taking PW1 for the purpose of enquiry in connection with the forest case cannot be stated as an act of kidnapping.

6. With regard to the allegation of extortion, even according to PW1, the gold articles and other valuables were returned to him, except for a portion of the cash. Further, PW1 had not stated anything with regard to the same during his remand in the forest case and immediately thereafter. Finding the forest case gaining momentum against him and possibility of implication cannot be brushed aside. In any event, the conviction of the petitioner needs reconsideration.

7. In view of the above, this Court is inclined to grant the relief of suspension of sentence to the petitioner.



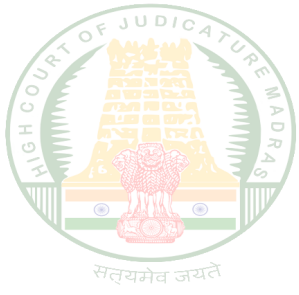
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8. Accordingly, the substantive sentence of imprisonment imposed on the petitioner is suspended till the disposal of the appeal and he is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

9. Further, the petitioner shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, until the disposal of the appeal and if he is not able to appear before the Trial Court on 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.

10. On breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala***

[(2005)AIR SCW 5560];
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10. Accordingly, this Criminal Miscellaneous Petition is ordered.

23.07.2026

Neutral Citation: Yes/No
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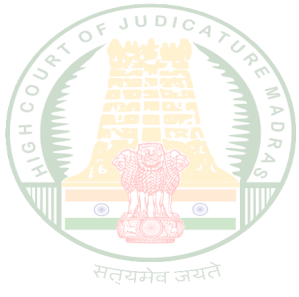
To

1.The Judicial Magistrate, No.2, Pollachi.

2.The Inspector of Police,
Pollachi West Police Station,
Coimbatore District.

3.The Central Prison,
Coimbatore.

4.The Public Prosecutor,
High Court of Madras.



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M.NIRMAL KUMAR, J.

AT

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