



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

Tuesday, the Ninth day of November Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.8811 of 2021

in

CRL RC(MD) No.752 of 2021

A.ARUN

... PETITIONER

Vs

THE STATE REPRESENTED BY
THE SUB INSPECTOR OF POLICE
MANAPPARAI POLICE STATION,
TRICHY.

CR.NO. 272 OF 2014.

... RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspending the sentence imposed by the Sessions Court, Tiruchirappalli in Crl.A.No.37 of 2016 dated 2.6.2017 confirming the Judgment passed by the Judicial Magistrate, Manapparai in CC.No.146 of 2014 dated 13.6.2016.

PRAYER IN CRL RC(MD) No.752 of 2021:

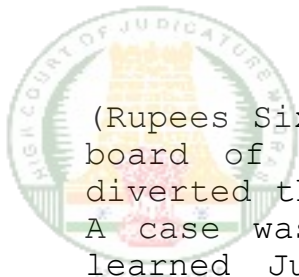
Pleased to call for the records in the Judgment of the Sessions Court, Tiruchirappalli Division, in CRL Appeal No.37 of 2006 dated 02.06.2017 which was confirmed CC No.146 of 2014 by the Judicial Magistrate, Manapparai dated 13.06.2016 and set-aside the same.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.VELAVADHAS.H, Advocate for the petitioner and of Mr.R.M.ANBUNITHI, Additional Public prosecutor on behalf of the Respondent, the Court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Sessions Judge, Tiruchirappalli in C.A.No.37 of 2006 dated 02.06.2017, till the disposal of the revision.

2.The case against the petitioner is that on 11.08.2014, at about 14.00 hours, the defacto complainant kept a sum of Rs.68,710/-

<https://hcservices.ecourts.gov.in/hcservices/>



(Rupees Sixty Eight Thousand Seven Hundred and Ten only) in the dash board of the car, which was parked near the bank. The accused diverted the attention of P.W.1 and P.W.2 and had stolen the money. A case was registered in C.C.No.146 of 2014 on the file of the learned Judicial Magistrate, Manapparai. After trial, the trial Court found the petitioner guilty and convicted the petitioner and sentenced him to undergo three years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo six months rigorous imprisonment for the offence under Section 379 of IPC. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal in C.A.No.37 of 2016 before the learned Sessions Judge, Tiruchirappalli. The appellate Court confirmed the conviction and the sentence imposed by the trial Court. Aggrieved by which, the petitioner has preferred a revision in Crl.R.C.(MD)No.752 of 2021 and along with the revision, he filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that the petitioner has paid the fine amount before the trial Court on 02.06.2017. When the matter was posted for judgment before the first appellate Court, the petitioner failed to appear. The petitioner was residing in Chennai and was working as a loadman and he could not attend the Court on that particular date. Subsequently, he surrendered on 12.07.2021 and he is in custody for the past four months. It is further stated that the name of the petitioner did not find place in the FIR. The specific amount was not mentioned in the complaint. Recovery witness did not support the case of the prosecution. Investigation Officer has deposed that he has not investigated anything regarding the pledging of the jewels by the defacto complainant. The receipt given by the pawn broker was not marked. The pawn broker was not examined. Identification parade was not conducted by the prosecution and prayed the sentence to be suspended till the disposal of the revision.

4.On the side of the prosecution, it is stated that the petitioner committed theft by diverting the attention of P.W.1 and P.W.2. The judgment was pronounced on 02.06.2017. The petitioner surrendered before the Court only after a lapse of three years. If the sentence is suspended, there is possibility of the petitioner to abscond and that it will be difficult to trace him out and prayed the petition to be dismissed.

5.It is seen that the petitioner is in custody for the past four months. The petitioner was absent on the date of pronouncement of judgment in the appeal. Only after a lapse of three years, the petitioner has surrendered himself and is in custody. The offence against the petitioner is theft. Admittedly, the petitioner is a resident of Chennai. If the sentence imposed on the petitioner is suspended, the petitioner may abscond again.



6. In the above circumstance, this Court is not inclined to grant suspension of sentence to the petitioner. Hence, this petition is dismissed at present.

sd/-
09/11/2021

/ TRUE COPY /

/ /2021

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

TO

- 1 THE SESSIONS JUDGE,
TIRUCHIRAPPALLI.
- 2 THE JUDICIAL MAGISTRATE,
MANAPPARAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUCHIRAPPALLI.
- 4 THE SUB INSPECTOR OF POLICE
MANAPPARAI POLICE STATION, TRICHY.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.8811 of 2021
in
CRL RC(MD) No.752 of 2021
Date : 09/11/2021

SS/JC/SAR-I/24.11.2021 : 3P/6C