



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

Friday, the Twenty Ninth day of October Two Thousand and Twenty One
PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

WEB COPY

CRL MP(MD) No.6794 of 2021

IN

CRL RC(MD)No.678 of 2020

1 MURUGESAN

2 KULANCHI @ KATTARI

... PETITIONERS/PETITIONERS

Vs

THE STATE REP.BY

THE INSPECTOR OF POLICE

IDOL WING, CHENNAI.

KUMBAKONAM TOWN EAST POLICE STATION

(CR.NO.158 OF 2000)

... RESPONDENT/RESPONDENT

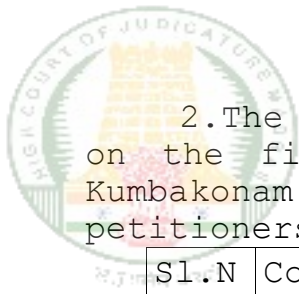
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Sentence of Imprisonment imposed by the Learned Additional District and Session Judge, (Fast Track Court), Kumbakonam in Crl.A.No.37 of 2017 by the Judgement dated 27.08.2020 confirming the judgment of conviction by the Learned Additional Chief Judicial Magistrate, Kumbakonam in C.C.No.1 of 2001 by dated 02.05.2017, pending disposal of the Criminal Revision.

PRAYER IN CRL RC(MD)No.678 of 2020:

To call for the records of the Learned Additional District and Session Judge, (Fast Track Court) Kumbakonam, in Crl A.No.37 of 2017 by Judgment dated 27.08.2020, confirming the conviction and sentence of imposed by the Additional Chief Judicial Magistrate, Kumbakonam in C.C.No.1 of 2001 by the Judgment dated 02.05.2017 and set aside the Judgments of the courts below and acquit the Petitioners.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.D.RAMESHKUMAR, Advocate for the petitioners and of Mr.E.ANTONY SAHAYA PRABAHAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioners by judgment dated 02.05.2017, in C.C.No.1 of 2001, on the file of the Additional Chief Judicial Magistrate, Kumbakonam, which was confirmed by the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam, vide judgment dated 27.08.2020, in Crl.A.No.37 of 2017, and to enlarge the petitioners on bail pending disposal of the Criminal Revision.

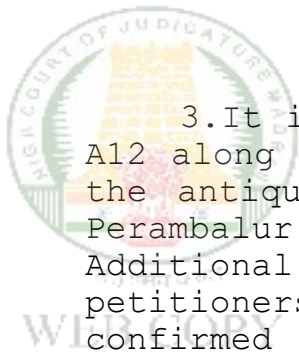


2.The petitioners are Accused Nos.3 and 12 in C.C.No.1 of 2001 on the file of the Additional Chief Judicial Magistrate Court, Kumbakonam. After full-fledged trial, the trial Court found the petitioners guilty, convicted and sentenced them as detailed below:-

Sl.N o	Convicted under Section	Sentence of imprisonment / fine imposed [A3 - Murugesan]
1.	401 I.P.C.	Rigorous Imprisonment for 3 years and imposed a fine of Rs.500/-, in default, to undergo simple imprisonment for 3 months
2.	120-B read with Section 457(2) IPC	Rigorous Imprisonment for 3 years and imposed a fine of Rs.5,000/-, in default, to undergo simple imprisonment for 6 months.
3.	120-B read with Section 380(2) IPC	Rigorous Imprisonment for 3 years and imposed a fine of Rs.2,000/-, in default, to undergo simple imprisonment for 6 months.
4.	457 (2) IPC (3 counts)	Rigorous imprisonment for 3 years each and imposed a fine of Rs.5,000/- each, in default, to undergo 6 months simple imprisonment each.
5.	380(2) IPC (3 counts)	Rigorous imprisonment for 3 years each and imposed a fine of Rs.2,000/- each, in default, to undergo 6 months simple imprisonment each.
Sl.N o	Convicted under Section	Sentence of imprisonment / fine imposed [A12 - Kulanji alias Kattari]
1.	401 I.P.C.	Rigorous Imprisonment for 3 years and imposed a fine of Rs.500/-, in default, to undergo simple imprisonment for 3 months
2.	120-B read with Section 457(2) IPC	Rigorous Imprisonment for 3 years and imposed a fine of Rs.5,000/-, in default, to undergo simple imprisonment for 6 months.
3.	120-B read with Section 380(2) IPC	Rigorous Imprisonment for 3 years and imposed a fine of Rs.2,000/-, in default, to undergo simple imprisonment for 6 months.
4.	457 (2) IPC (2 counts)	Rigorous imprisonment for 3 years each and imposed a fine of Rs.5,000/-, each in default, to undergo 6 months simple imprisonment each.
5.	380(2) IPC (2 counts)	Rigorous imprisonment for 3 years each and imposed a fine of Rs.2,000/- each, in default, to undergo 6 months simple imprisonment each.

All the above sentences were directed to run concurrently.

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



3.It is the case of the prosecution that the petitioners/A3 and A12 along with other accused conspired between themselves to burgle the antique stone idols in the temples situated in Thanjavur and Perambalur Districts. After full fledged trial, the learned Additional Chief Judicial Magistrate, Kumbakonam, convicted the petitioners/A3 and A12 as stated supra and the same was also confirmed by the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam.

4.Challenging the above said conviction and sentence, the petitioners have filed Crl.R.C.(MD)No.677 of 2020 along with the instant Miscellaneous Petition, seeking suspension of sentence and bail.

5.Heard Mr.D.Rameshkumar, learned counsel appearing for the petitioners and Mr.E.Antony Sahaya Prabahar, Additional Public Prosecutor appearing for the respondent/State.

6.It is submitted by the learned counsel appearing for the petitioners that the petitioners are innocents and they have not committed any offence as alleged by the prosecution. The learned counsel further submitted that during the period of appeal, the petitioners were on bail and on the date of judgment, they were not in a position to come to the Court due to COVID-19 Pandemic. He has also submitted that after dismissal of earlier application for suspension of sentence, the petitioners voluntarily surrendered before the trial Court and they are in judicial custody from 04.08.2021.

7.It is submitted by the learned Additional Public Prosecutor that the petitioners have two previous cases similar in nature. However, insofar as the present case is concerned, there are enough materials available on record against the petitioners, as per the evidence adduced by the prosecution, there is no infirmity in the prosecution case. Accordingly, he strongly opposed to grant suspension of sentence.

8.Considering the above said facts and circumstances of the case and also considering the fact that the petitioners are having two previous cases similar in nature, this Court is not inclined to suspend the sentence of imprisonment imposed on them. Accordingly, this Criminal Miscellaneous Petition is dismissed.

sd/-

29/10/2021

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



TO

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE (FAST TRACK COURT),
KUMBAKONAM.
- 2 THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
KUMBAKONAM.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM
- 4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 5 THE INSPECTOR OF POLICE
IDOL WING, CHENNAI.
KUMBAKONAM TOWN EAST POLICE STATION
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL MP (MD) No.6794 of 2021
IN
CRL RC (MD) No.678 of 2020
Date : 29/10/2021

SA/VR/SAR.4/02.11.2021/4P/7C