



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

CRL MP(MD) No.6796 of 2021
IN
CRL RC(MD)No.677 of 2020

KALIYAPERUMAL

... PETITIONER/PETITIONER

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 Tract Court) Kumbakonam in Crl.A.No.38 of 2017 by the Judgment dated 27.08.2020 confirming the Judgment of conviction by the Learned.

PRAYER IN CRL RC(MD)No.677 of 2020:

To call for the records of the Learned Additional, District and session Judge, (Fast Track Court) Kumbakonam in Crl.A.No.38 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 petitioner 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 petitioner 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.38 of 2017, and to enlarge the petitioner on bail pending disposal of the Criminal Revision.

2.The petitioner is the 11th accused 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 petitioner guilty, convicted and sentenced him as detailed below:-

Sl.No.	Convicted under Section	Sentence of imprisonment/fine imposed
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 for each offence.
3.	120-B and 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 for each offence.
4.	457 (2) IPC	Rigorous imprisonment for 3 years and imposed a fine of Rs.5,000/-, in default, to undergo 6 months simple imprisonment.
5.	380(2) IPC	Rigorous imprisonment for 3 years and imposed a fine of Rs.2,000/-, in default, to undergo 6 months simple imprisonment.

All the above sentences were directed to run concurrently.

3.It is the case of the prosecution that the petitioner/All 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 petitioner/All 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 petitioner has 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 petitioner 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 petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. The learned counsel further submitted that during the period of appeal, the petitioner was on bail and on the date of judgment, he was 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 petitioner voluntarily surrendered before the trial Court and he is in judicial custody from 04.08.2021.

7.It is submitted by the learned Additional Public Prosecutor that the petitioner has no previous case. However, insofar as the present case is concerned, there are enough materials available on record against the petitioner, 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.This Court has carefully considered the rival contentions put forward by the learned counsel appearing on either side and also perused the materials available on record.

9.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing in the near future and the petitioner is in jail since 04.08.2021 and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of suspension of sentence.

10.Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Additional Chief Judicial Magistrate, Kumbakonam.

(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 trial Court on the first working day of every month at 10.30 a.m. until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of 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.

sd/-

29/10/2021

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/ /2021

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 JUDICIALMAGISTRATE,
KUMBAKONAM.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRAET,
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.6796 of 2021
IN

CRL RC (MD) No.677 of 2020

Date :29/10/2021

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