



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

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

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PRESENT

The Hon`ble Mrs.Justice R.THARANI

Crl.M.P. (MD)No.7822 of 2021

in

Crl.A. (MD)No.407 of 2021

MANIKKANATHAN

...APPELLANT/SOLE ACCUSED

Vs

STATE THROUGH
THE INSPECTOR OF POLICE
KOVILANGULAM POLICE STATION,
RAMANATHAPURAM DISTRICT.
IN CR. NO. 12 OF 2019.

... RESPONDENT/COMPLAINANT

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 Sessions Judge, Paramakudi in SC.No.11/2020 dated 26/08/2021 and enlarge the Petitioner/Appellant on bail, pending disposal of the above said Criminal Appeal.

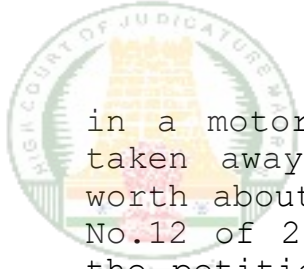
Prayer in Crl.A. (MD)No.407 of 2021:

To call for records and to set aside the judgment and sentence passed by the the Learned Additional District Sessions Judge, Paramakudi on 26/08/2021 in SC.No.11/2020 and acquit this Appellant/Accused from the charges under sections 395 r/w and 397 of IPC in the interest of justice.

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.WILLIAM CHRISTOPHER.J., Advocate for the petitioner and of MR.K.JANJAY GANDHI, Government Advocate on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the Sentence of imprisonment imposed by the learned Additional District Sessions Judge, Paramakudi in S.C.No.11 of 2020 dated 26.08.2021.

2. The case against the petitioner is that the petitioner and others hired a car at Tenkasi bus stand for a trip to Sayalkudi. When the car was nearing Komboothi, one Muthumani, a juvenile came



in a motor cycle and he attacked the driver and the accused had taken away two mobile phones and cash of Rs.4,500/- and the car worth about one lakh and they intimidated the driver. A case in Crime No.12 of 2019 was registered under Section 395 r/w 397 IPC against the petitioner and others. One of the three accused is a juvenile and the case of the juvenile was split and the case against the petitioner was taken on file as S.C.No.11 of 2020. The trial Court found that the petitioner guilty under Section 395 r/w 397 of IPC and sentenced him to undergo seven years rigorous imprisonment. Against the conviction and sentence, the petitioner filed an appeal in Criminal Appeal (MD) No.407 of 2021 and along with the appeal, the petitioner filed this petition for suspension of sentence.

3. On the side of the petitioner, it is stated that the petitioner is in custody for the past two years. No identification parade was conducted in the case. Only after a lapse of 2 ½ years, the petitioner was identified at the time of trial, which is not reliable. Only based on the confession given by the juvenile accused, the case was registered against the petition but the confession of the juvenile accused was not marked by the prosecution. The ownership of the vehicle was not proved by the prosecution. The number of the vehicle was not mentioned in the FIR. The confession of the minor juvenile was recorded only after three months from the date of alleged occurrence and prayed the sentence to be suspended.

4. On the side of the prosecution, it is stated that the offence is serious in nature. The prosecution has examined 19 witnesses, marked 19 documents and one material object and proved the case beyond all reasonable doubts. The petitioner is having 14 previous cases. Out of the 14 cases, 9 cases are pending trial and 2 cases are to be taken on file and prayed the petition to be dismissed.

5. The date of judgment is 26.08.2021. Considering the previous antecedents of the accused and considering the date of judgment, this Court is not inclined to suspend the sentence and this Criminal Miscellaneous Petition is dismissed.

sd/-
16/11/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE ADDITIONAL DISTRICT SESSIONS JUDGE,
PARAMAKUDI.



2. THE INSPECTOR OF POLICE
KOVILANGULAM POLICE STATION,
RAMANATHAPURAM DISTRICT.

3. THE SUPERINTENDENT CENTRAL PRISON, MADURAI.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
Crl.M.P. (MD) No.7822 of 2021
in
Crl.A. (MD) No.407 of 2021
Date :16/11/2021

VB/VR/SAR-II/04.12.2021/3P/5C