



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.Nos.5828 & 6289 of 2022

in Crl.R.C.No.562 of 2022

Jayakumar,
S/o.Govindan Kutti Nair

... Petitioner /
Accused
[in both Crl.M.Ps]

versus

The State Rep. by,
Inspector of Police,
S2 Airport Police Station,
Meenambakkam, Chennai.
(Crime No.203 of 2006)

... Respondent /
Complainant
[in both Crl.M.Ps]

COMMON PRAYER: Criminal Miscellaneous Petitions have been filed under Sections 389 & 482 of Cr.P.C., praying to suspend the sentence imposed on the petitioner by the learned Principal District and Sessions Judge, Kancheepuram at Chengalpattu, in C.A.No.12 of 2018 dated 16.11.2021, by confirming the judgment passed by the learned Judicial Magistrate, Alandur, in C.C.No.809 of 2016 dated 31.01.2018 and enlarge the petitioner and to exempt the petitioner from surrendering before the trial Court.

For Petitioner : Mr.R.C.Paul Kanagaraj
[in both Crl.M.Ps]

For Respondent : Mr.Leonard Arul Joseph Selvam
[in both Crl.M.Ps] Government Advocate (Crl. Side)

C O M M O N O R D E R

These Criminal Miscellaneous Petitions have been filed by the petitioner/accused, seeking suspension of sentence imposed upon the petitioner in C.A.No.12 of 2018 dated 16.11.2021 by the learned Principal District and Sessions Judge, Kancheepuram at Chengalpattu, by confirming the judgment and sentence passed in C.C.No.809 of 2016 dated 31.01.2018 by the learned Judicial Magistrate, Alandur and enlarge the petitioner on bail and seeking to exempt the petitioner from surrendering before the trial court.



2. The petitioner herein is the accused in C.C.No.809 of 2016 on the file of the learned Judicial Magistrate, Alandur. He was found guilty of the offences punishable under Sections 447 and 332 of IPC and has been convicted and sentenced as under:

Offence	Sentence
Section 447 of IPC	Simple Imprisonment for 1 month
Section 332 of IPC	Simple Imprisonment for 1 year along with fine of Rs.2,000/-, in default, to undergo Simple Imprisonment for 1 month
The aforesaid sentences were ordered to run concurrently.	

3. Aggrieved against the same, the petitioner had filed appeal in C.A.No.12 of 2018 and the learned Principal District and Sessions Judge, Kancheepuram at Chengalpattu, by judgment dated 16.11.2021 had partly allowed the appeal, by modifying the imprisonment awarded to the accused for the offence under Section 332 of IPC into Rigorous Imprisonment for six months and confirmed the conviction and sentence imposed upon the accused for the offence under section 447 of IPC and also confirmed the fine amount of Rs.2,000/- for the offence under Section 332 of IPC, against which the present revision has been filed.

4. The case of the prosecution is that, on 18.03.2006, when one of the political leader was arriving in the Airport, the petitioner along with other accused tried to enter into the Airport, without any valid pass and hence, the de facto complainant, who is the security personnel refused to allow him and thereby, the accused alleged to have assaulted him and he sustained injury. Hence, a case has been registered against the petitioner for the offences punishable under Sections 447 and 332 of IPC.

5. According to the learned counsel for the petitioner, there are arguable points available in this Criminal Revision Petition and the petitioner has got a fair chance of succeeding in the Criminal Revision Petition and hence, the substantive sentence imposed against the petitioner/accused may be suspended and the petitioner may be exempted from surrendering before the trial Court.

6. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent police raised serious objection for allowing this petition. He would further contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.



WEB COPY

7. Heard Mr.R.C.Paul Kanagaraj, learned counsel appearing for the petitioner/accused and Mr.Leonard Arul Joseph Selvam, learned Government Advocate (Crl. Side), appearing for the respondent police and also perused the materials placed on record.

8. Submissions made by the learned counsel appearing on either side are considered. The evidence given by P.W.1 in respect to the alleged occurrence needs a detailed appraisal. Here, it is a case, the revision petition is not likely to be taken up in the near future. In such a view of the matter, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions.

9. Accordingly, till the disposal of the Criminal Revision case, the reliefs of suspension of sentence, exemption from surrendering and bail are granted on the following conditions:

(a) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Alandur;

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities; and

(c) The petitioner shall appear before the trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the appeal 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 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of her absence, as directed by the trial Court.

10. With the above directions, these Criminal Miscellaneous Petitions are ordered.

-sd/-
29/04/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.



1 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, KANCHEEPURAM AT
CHENGALPATTU.

2 THE JUDICIAL MAGISTRATE,
ALANDUR.

3 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
S2 AIRPORT POLICE STATION,
MEENAMBAKKAM, CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

+1 C.C. to M/S. R.C.PAUL KANAGARAJ Advocate on payment of
necessary charges SR.NO. 6577

Order

in
CRL MP.Nos.5828 & 6289 of 2022
in
Crl.R.C.No.562 of 2022

Date :29/04/2022

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

RW 29/04/2022