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Crl.M.P.No.19790 of 2022 in Crl.R.C.No.1671 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 23.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.19790 of 2022
in Crl.R.C.No.1671 of 2022

Sheik @ Sheik Moideen

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Kunnathur Police Station, Tiruppur District.
(Crime No.190/2011)

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 397(1) of Criminal Procedure Code, pleaded to suspend the sentence passed in the judgment and sentence imposed in C.C.No.173 of 2019 dated 08.09.2021, by the Learned District Munsif cum Judicial Magistrate, Uthukuli, which was confirmed by the Hon'ble II Additional District and Sessions Judge, Tiruppur in Crl.A.No.68 of 2021 dated 02.09.2022 and enlarge the petitioner on bail pending disposal of the Criminal Revision Petition.

For Petitioner : Mr.R.Vivekananthan

For Respondent : Mr.V.Meganathan,
Government Advocate (Crl. Side)

ORDER



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This petition has been filed to suspend the sentence imposed on the petitioner by the Trial Court in C.C.No.173 of 2019, vide judgement dated 08.09.2021, which was confirmed by the first Appellate Court in C.A.No.68 of 2021, vide judgment dated 02.09.2022, pending disposal of the Criminal Revision Petition.

2. The learned District Munsif cum Judicial Magistrate, Uthukuli by judgment dated 08.09.2021 in C.C.No.173 of 2019, convicted the petitioner/A2 and other accused/A1 for the offence punishable under Section 392 IPC and sentenced them to undergo 3 years rigorous imprisonment each and to pay a fine of Rs.1,000/- each, in default, to undergo 3 months simple imprisonment each. Challenging the above judgment, the petitioner and the other accused/A1, preferred an appeal in C.A.No.68 of 2021, which was also confirmed by the learned II Additional District and Sessions Judge, Tiruppur, vide judgment dated 02.09.2022.

3. Challenging the conviction and sentence slapped by the Trial Court and the first Appellate Court, the petitioner/A2 is before this Court.

4. The learned counsel for the petitioner submitted that there are arguable points in this Criminal Revision Petition. He further submitted that



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already the petitioner paid the fine amount and now, he is custody and hence, prayed for suspension of sentence.

5. Heard the learned Government Advocate(Crl. side) appearing for the respondent and perused the impugned judgment and the materials on record.

6. Taking into consideration of the above submission of the learned counsels appearing on both sides, this Court finds that the petitioner has substantial grounds in this Criminal Revision Petition, which require detailed appraisal. Therefore, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence.

7. Accordingly, it is ordered as follows.

(i) The substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner ***shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Uthukuli.***

(ii) The petitioner and the sureties shall affix their photographs and



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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.

(iii) The petitioner shall appear before the Trial Court, as and when required.

23.12.2022

Index: Yes/No
Internet: Yes/No
mst

To

1. The II Additional District and Sessions Judge,
Tiruppur.
2. The District Munsif cum Judicial Magistrate,
Uthukuli,
3. The Superintendent, Central Prison, Coimbatore.
4. The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

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