



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

Friday, the Twenty Fifth day of February Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL MP(MD) No.2826 of 2022
IN
CRL.R.C. (MD)No. 752 of 2021

A.ARUN

... PETITIONER/APELLANT/ACCUSED

Vs

STATE REP BY,
THE SUB INSPECTOR OF POLICE,
MANAPPARAI POLICE STATION,
TRICHY.
(CR.NO.272 OF 2014)

... RESPONDENT/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 imposed upon the petitioner passed by the Hon'ble Session Court, Tiruchirapalli in C.A.No.37 of 2016 dated 02.06.2017 in C.C.No.146 of 2014 on the file of the learned Judicial Magistrate, Manapparai dated 13.06.2016 and release the petitioner on bail till the disposal of the appeal.

PRAYER IN CRL.R.C. (MD)No. 752 of 2021:

To call for the records in the judgment of the Sessions Court, Tiruchirappalli Division, in Crl.Appeal No.37 of 2006 dated 02.06.2017 which was confirmed CC No.146 of 2014 by the Judicial Magistrate, Manapparai dated 13.06.2016 and set-aside the same.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.ALAGUMANI.R., Advocate for the petitioner and of M/S.M.AASHA, Government Advocate (Criminal Side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed upon the petitioner passed by the Sessions Court, Tiruchirapalli, in C.A.No.37 of 2016 dated 02.06.2020 in C.C.No.146 of 2014 on the file of the learned Judicial Magistrate, Manapparai, dated 13.06.2016 and release the petitioner on bail till the disposal of the appeal.

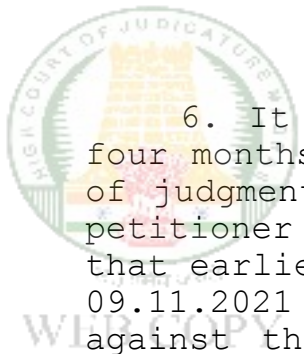


2. The case against the petitioner is that on 11.08.2014, at about 14.00 hours, the defacto complainant kept a sum of Rs.68,710/- (Rupees Sixty Eight Thousand Seven Hundred and Ten only) in the dash board of the car, which was parked near the bank. The accused diverted the attention of P.W.1 and P.W.2 and had stolen the money. A case was registered in C.C.No.146 of 2014 on the file of the learned Judicial Magistrate, Manapparai. After trial, the trial Court found the petitioner guilty and convicted the petitioner and sentenced him to undergo three years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo six months rigorous imprisonment for the offence under Section 379 of IPC. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal in C.A.No.37 of 2016 before the learned Sessions Judge, Tiruchirappalli. The appellate Court confirmed the conviction and the sentence imposed by the trial Court. Aggrieved by which, the petitioner has preferred a revision in Crl.R.C.(MD)No.752 of 2021 and along with the revision, he filed this petition for suspension of sentence.

3. On the side of the petitioner, it is stated that the petitioner has paid the fine amount before the trial Court on 02.06.2017. When the matter was posted for judgment before the first appellate Court, the petitioner failed to appear. The petitioner was residing in Chennai and was working as a loadman and he could not attend the Court on that particular date. Subsequently, he surrendered on 12.07.2021 and he is in custody for the past four months. It is further stated that the name of the petitioner did not find place in the FIR. The specific amount was not mentioned in the complaint. Recovery witness did not support the case of the prosecution. Investigation Officer has deposed that he has not investigated anything regarding the pledging of the jewels by the defacto complainant. The receipt given by the pawn broker was not marked. The pawn broker was not examined. Identification parade was not conducted by the prosecution and prayed the sentence to be suspended till the disposal of the revision.

4. On the side of the prosecution, it is stated that the petitioner committed theft by diverting the attention of P.W.1 and P.W.2. The judgment was pronounced on 02.06.2017. The petitioner surrendered before the Court only after a lapse of three years. The earlier petition filed by this petitioner in Crl.M.P.(MD).No.8811 of 2021 was dismissed by this Court on 09.11.2021. There is no change of circumstances. If the sentence is suspended, there is possibility of the petitioner to abscond and that it will be difficult to trace him out and prayed the petition to be dismissed.

5. Heard the learned counsel on both sides.



6. It is seen that the petitioner is in custody for the past four months. The petitioner was absent on the date of pronouncement of judgment in the appeal. Only after a lapse of three years, the petitioner has surrendered himself and is in custody. It is seen that earlier petition filed by this petitioner was dismissed only on 09.11.2021 and there is no change of circumstance. The offence against the petitioner is theft. Admittedly, the petitioner is a resident of Chennai. If the sentence imposed on the petitioner is suspended, the petitioner may abscond again.

7. In the above circumstance, this Court has already dismissed the petition filed by the petitioner herein in Crl.M.P(MD)No.10437 of 2021, dated 30.11.2021. There is no infirmity or illegality of the order passed by this Court.

8. In view of the above, this Court is not inclined to grant suspension of sentence to the petitioner as sought for by him for the second time. Hence, this criminal miscellaneous petition is closed.

sd/-
25/02/2022

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/ /2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE SESSIONS JUDGE, TRICHIRAPPALLI.
2. THE JUDICIAL MAGISTRATE, MANAPPARAI.
3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
4. THE SUB INSPECTOR OF POLICE,
MANAPPARAI POLICE STATION, TRICHY.
5. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHIRAPPALLI.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL MP(MD) No.2826 of 2022
IN
CRL.R.C.(MD)No. 752 of 2021
Date :25/02/2022

USK/PN/SAR-IV/20.04.2022/3P/7C

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