



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

Wednesday, the Sixth day of July Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.5872 of 2022
IN
CRL A(MD) No.407 of 2021

MANIKKANATHAN

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
KOVILANGULAM POLICE STATION,
RAMANATHAPURAM DISTRICT.
CR.NO.12/2019

... 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 Sessions Judge, Paramakudi in SC.No.11/2020 dt 26.08.2021 and enlarge the Petitioner/Appellant on bail, pending disposal of the above said Criminal Appeal.

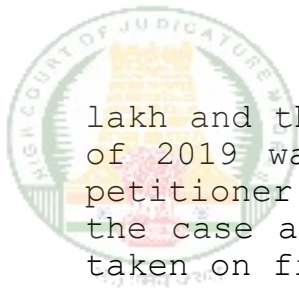
PRAYER IN CRL A(MD) No.407/2021:

Pleased to call for records and set aside the judgment and sentence passed by the Learned Additional District Sessions Judge, Paramakudi on 26.08.2021 in S.C.No.11 of 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 M/S.MURUGAN.M, Advocate for the petitioner and of Mr.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, While admitting the Crl.A., the court made the following order:-

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

2.The case of the prosecution 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 Rs.1



lakh and they intimated the driver, for which, a case in Cr. 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 against the other two accused including the petitioner was taken on file as S.C.No.11 of 2020.

3. During trial, 19 witnesses have been examined as P.W.1 to P.W.19 and 19 documents were exhibited as Ex.P.1 to Ex.P.19. Whereas, the accused have adduced neither oral nor documentary evidence.

4. The learned Sessions Judge, upon considering the evidence adduced and on hearing the arguments of both the sides, has passed the impugned judgment, dated 26.08.2021, convicting the petitioner and sentenced him to undergo seven years rigorous imprisonment for the offence under Section 395 r/w 397 IPC. Aggrieved by the said conviction and sentence imposed by the trial Court, the petitioner has preferred the above appeal.

5. The learned Additional Public Prosecutor appearing for the State submitted that the petitioner was having 16 previous case and nine cases are pending and that when the petitioner was in judicial custody in another case, he was produced on PT warrant and remanded to judicial custody so far as the present case is concerned. He further submitted that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

6. The learned counsel appearing for the petitioner submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

7. It is evident from the records that the petitioner's earlier two applications for suspension of sentence were dismissed by this Court in Crl.M.P.(MD)No.7822 of 2021 and Crl.M.P.(MD)No.2975 of 2022 in Crl.A(MD)No.407 of 2021, vide orders, dated 16.11.2021 and 03.03.2022. The petitioner/appellant has now come forward with the third application for suspension of sentence.

8. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

9. The learned counsel appearing 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 appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief

<https://www.courts.madras.gov.in/> of suspension of sentence.



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

(i) the petitioner is directed to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the Additional District Sessions Judge, Paramakudi;

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iii) The petitioner shall appear before the trial Court on all working days at 10.30 am, 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/-

06/07/2022

/ TRUE COPY /

08/07/2022

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

TO

1 THE ADDITIONAL DISTRICT SESSIONS JUDGE, PARAMAKUDI.

2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

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

ORDER IN

CRL MP(MD) No.5872 of 2022
IN

CRL A(MD) No.407 of 2021

Date : 06/07/2022

SA/VR/SAR.2/08.07.2022/3P/5C

<https://www.mhc.tn.gov.in/judis>