



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

Tuesday, the Twelfth day of July Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

WEB COPY

CrI.M.P(MD)Nos.6973 and 5813 of 2022
in
CrI.R.C.(MD)No.678 of 2020

KULANCHI ALIAS KATTARI

... PETITIONER / PETITIONER A12
IN CrI.M.P(MD)No.6973 of 2022

MURUGESAN

... PETITIONER/PETITIONER A3
IN CrI.M.P(MD)No.5813 of 2022

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
IDOL WING, CHENNAI
KUMBAKONAM TOWN EAST POLICE STATION,
CRIME NO.158/2000.

... RESPONDENT/RESPONDENT
IN BOTH THE PETITIONS

Prayer in CrI.M.P(MD)No.6973 of 2022:

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 by the learned Additional District and Session Judge, (Fast Track Court), Kumbakonam in CrI.A.No. 37/2017 by the Judgment dt 27/08/2020, confirming the judgment of conviction by the Learned Additional Chief Judicial Magistrate, Kumbakonam in C.C.No.1/2001 by dated 02.05.2017, pending disposal of the Criminal Revision.

Prayer in CrI.M.P(MD)No.5813 of 2022:

To Suspend the sentence imposed by the Learned Additional District and Sessions Judge (Fast Track court) Kumbakonam in CrI A No.37/2017 by the Judgment dated 27.08.2020 confirming the judgment of conviction by the Learned Additional Chief Judicial Magistrate, Kumbakonam in C.C.No.1/2001 by dated 02.05.2017, pending disposal of the Criminal Revision.

PRAYER IN CRL RC(MD) No.678 of 2020 :

Pleased to call for the records of the Learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam in CrI.A.No.37 of 2017 by Judgment dated 27.08.2020, confirming the conviction and sentence of imposed by the Additional Chief Judicial Magistrate, Kumbakonam in C.C.No.1 of 2001 by the Judgment dated 02.05.2017 and set aside the Judgments of the courts below and acquit the Petitioners.

Order : These petitions coming up for orders on this day, upon
<https://www.mca.gov/judicial> the petitions filed in support thereof and upon hearing the



arguments of Mr.M.SUBASH BABU, Advocate for the petitioner in both the petitions and of MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent in both the petitions, While admitting the Crl.RC., the court made the following order:-

These Criminal Miscellaneous Petitions have been preferred seeking to suspend the sentence imposed on the petitioners by judgment dated 02.05.2017, in C.C.No.1 of 2001, on the file of the Additional Chief Judicial Magistrate, Kumbakonam, which was confirmed by the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam, vide judgment dated 27.08.2020, in Crl.A.Nos.37 and 38 of 2017, and to enlarge the petitioners on bail pending disposal of the Criminal Revision.

2.The petitioners are arrayed as A3 and A12 in C.C.No.1 of 2001 on the file of the Additional Chief Judicial Magistrate Court, Kumbakonam. After full-fledged trial, the trial Court found the petitioners guilty, convicted and sentenced them as detailed below:-

Sl.No.	Accused	Convicted under Section	Sentence of Imprisonment/fine imposed
1.	A3 and A12	401 IPC	Rigorous Imprisonment for 3 years and imposed a fine of Rs.500/- each, in default, to undergo simple imprisonment for 3 months each
2.			
3.			
4.		120-B r/w Section 457(2) IPC	Rigorous Imprisonment for 3 years and imposed a fine of Rs.5,000/- each, in default, to undergo simple imprisonment for 6 months each for each offence
5.			
		120-B and 380(2) IPC	Rigorous Imprisonment for 3 years and imposed a fine of Rs.2,000/- each, in default, to undergo simple imprisonment for 6 months each for each offence
		457(2) IPC (3 counts for A3 and 2 counts for A12)	Rigorous Imprisonment for 3 years and imposed a fine of Rs.5,000/- each, in default, to undergo 6 months simple imprisonment each
		380(2) IPC (3 counts for A3 and 2 counts for A12)	Rigorous Imprisonment for 3 years and imposed a fine of Rs.2,000/- each, in default, to undergo 6 months simple imprisonment each.

All the above sentences were directed to run concurrently.

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



3.It is the case of the prosecution that the petitioners/A3 and A12 along with other accused conspired between themselves to burgle the antique stone idols in the temples situated in Thanjavur and Perambalur Districts. After full fledged trial, the learned Additional Chief Judicial Magistrate, Kumbakonam, convicted the petitioners/A3 and A12 as stated supra and the same was also confirmed by the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam.

4.Challenging the above said conviction and sentence, the petitioners have filed Crl.R.C.(MD)No.678 of 2020 along with the above Miscellaneous Petitions, seeking suspension of sentence.

5.No doubt, the petitioners' earlier applications were dismissed by this Court, in Crl.M.P.(MD)Nos.6782 and 6789 of 2020, 6794 of 2021 and 10396 of 2021, vide order dated 16.12.2020, 29.10.2021 and 06.01.2022. Thereafter, the petitioners have filed application in Crl.M.P.(MD)No.4163 of 2022 before this Court and the same was dismissed as withdrawn on 18.04.2022. Again, the petitioner/A3 has filed a petition in Crl.M.P.(MD)No.5813 of 2022 and this Court, vide order dated 19.05.2022, has granted interim suspension of sentence till 20.06.2022 and directed the petitioner to surrender before the Central Prison on the said date.

6.In pursuance of the direction of this Court, dated 19.05.2022, the petitioner/A3 has surrendered before the Central Prison, Trichy on 20.06.2022 and the same was recorded by this Court.

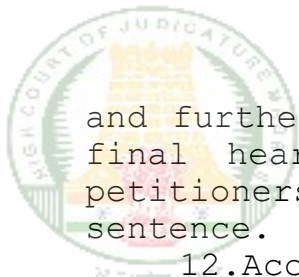
7.Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondent.

8.The learned counsel appearing for the petitioners would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

9.The learned Additional Public Prosecutor would submit that there are enough materials available on record against the petitioners and as per the evidence adduced by the prosecution, there is no infirmity in the prosecution case. Accordingly, he strongly opposed to grant suspension of sentence.

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

11.The learned counsel for the petitioners pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains



and further the criminal revision is not likely to be taken for final hearing, this Court is of the considered view that the petitioners herein are entitled to the relief of suspension of sentence.

12. Accordingly, the relief of suspension of sentence and bail are granted to the petitioners on the following conditions:-

(i) The petitioners shall execute a bond for a sum of Rs.25,000/- each with two sureties each for a like sum to the satisfaction of the learned Additional Chief Judicial Magistrate, Kumbakonam.

(ii) The sureties shall affix their photographs and 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; and

(iii) The petitioners shall appear before the trial Court on the first working day of every month at 10.30 a.m. until further orders and if they are not able to appear before the trial Court on any day, they 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 their absence, as directed by the trial Court.

sd/-

12/07/2022

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14/07/2022

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

TO

1. THE ADDITIONAL DISTRICT SESSIONS JUDGE (FAST TRACK COURT), KUMBAKONAM.
2. THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE, KUMBAKONAM.
3. THE CHIEF JUDICIAL MAGISTRATE, THANJAVUR DISTRICT AT KUMBAKONAM.
4. THE INSPECTOR OF POLICE,
IDOL WING, CHENNAI
KUMBAKONAM TOWN EAST POLICE STATION.
5. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+2 CC to M/s.M.SUBASH BABU, Advocate (SR-6971, 6972[I] dated 12/07/2022)

ORDER IN

CrI.M.P(MD)Nos.6973 and 5813 of 2022
in

CrI.R.C.(MD)No.678 of 2020

Date :12/07/2022