



WEB COPY

CRL MP(MD)



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
RESERVED ON : 11.07.2022
PRONOUNCED ON : 18.07.2022
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.7829 & 5775 of 2022

IN

CRL RC(MD) Nos.638 of 2021 & 434 of 2022

KALIYAPERUMAL

... PETITIONER/APPELLANT/ACCUSED NO.3
**IN CRL MP(MD).7829/2022 IN
CRL RC(MD).638/2021**

RAMADOSS

... PETITIONER/APPELLANT/1ST ACCUSED
**IN CRL MP(MD).5775/2022 IN
CRL RC(MD).434/2022**

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO.13 OF 2000.

... RESPONDENT/COMPLAINANT/COMPLAINANT
IN ALL PETITIONS

Prayer in CRL MP(MD).7829/2022 in CRL RC(MD).638/2021 :

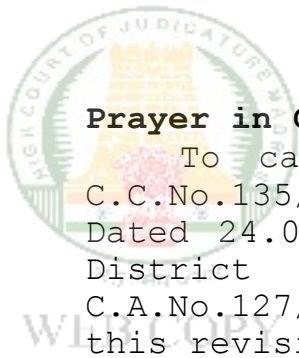
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed upon the Petitioner passed by the Hon'ble II Additional District and Sessions Court, Thanjavur in CA.No.126 of 2018 dated 30.04.2021 in CC.No.135 of 2002 on the file of the learned Judicial Magistrate No.I, Thanjavur and release appellant on bail till the disposal of the appeal.

Prayer in CRL RC(MD).638/2021 :

To call for the records pertaining to the C.A.No.126 of 2018 on the file of the Honourable II Addiitonal District and Sessions Judge, Thanjavur order dated 30/04/2021 in C.C.No.135 of 2002 on the file of the Learned Judicial Magistrate No.I, Thanjavur and set aside the judgment dated 24.09.2018.

Prayer in CRL MP(MD).5775/2022 in CRL RC(MD).434/2022 :

To Suspend the sentence in C.C.No.135/02 on the file of Judicial Magistrate No.1, Thanajvur Dated 24.09.2018 and same was confirmed by the learned Additional District Session Judge Cum Fast Track Court in Thanjavur in C.A.No.127/2018 on 30.04.2021 and release the petitioner on bail pending disposal of the Criminal Revision.

**Prayer in CRL RC(MD) . 434/2022 :**

To call for records and set aside the judgment passed in C.C.No.135/02 on the file of Judicial Magistrate No.1, Thanjavur Dated 24.09.2018 and same was confirmed by the learned Additional District Session Cum Fast Track Court in Thanjavur in C.A.No.127/2018 on 30.04.2021 and acquit the petitioner by allowing this revision.

Order : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.VENKATESAN R, Advocate for the petitioner in CRL MP (MD).7829/2022 and M/S.EBENEZER CHARLES.T.J, Advocate for the petitioner in CRL MP(MD).5775/2022 and of MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent in all petitions, while admitting the both Criminal Revision Case, the court made the following order:-

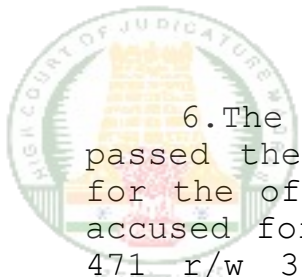
These Criminal Miscellaneous Petitions have been filed to suspend the sentence passed by the learned II Additional District and Sessions Judge, Thanjavur, in C.A.No.126 of 2018 dated 30.04.2021, in C.C.No.135 of 2002 dated 24.09.2018 on the file of the learned Judicial Magistrate No.1, Thanjavur, till the disposal of these Criminal Revisions.

2.It is not in dispute that the petitioner in Crl.M.P.(MD) No.5775 of 2022 is the first accused and the petitioner in Crl.M.P.(MD)No.7829 of 2022 is the third accused.

3.The case of the prosecution is that the first accused had approached the defacto complainant to purchase a land in plot No.43, new T.S.No.3, 4/1 and 4/2 admeasuring about 5 acres (5612 sq. ft.) situated at Municipal Ward No.4, Thanjavur Nilagiri South Garden, Thanjavur District, that the said land was originally owned by one Maruthapillai/father of the defacto complainant, that the said Maruthapillai expired in the year 1998, that the defacto complainant refused to sell the land to the first accused and that the first accused along with other accused had forged documents as if the said Maruthapillai had leased out the said land to him on 25.06.1975.

4.On the basis of the complaint lodged by the defacto complainant/P.W.1, FIR came to be registered in Crime No.13 of 2000 for the offences under Sections 465, 471 r/w 109 IPC and subsequently the case was altered into Sections 465, 468, 471 IPC r/w Section 34 IPC.

5.The respondent police, after completing the investigation, has laid the final report and the case was taken on file in C.C.No.135 of 2002 on the file of the Court of the Judicial Magistrate No.I, Thanjavur.



6.The learned Magistrate, after completing the trial as passed the judgment dated 24.09.2018 convicting the first accused for the offences under Sections 465, 468 and 471 IPC and the third accused for the offences under Sections 465 r/w 34, 468 r/w 34 and 471 r/w 34 IPC and sentenced them to undergo two years simple imprisonment for the offence under Section 465 IPC and to pay a fine of Rs.500/-, in default, to undergo one month simple imprisonment and sentenced them to undergo two years simple imprisonment for the offence under Section 468 IPC and to pay a fine of Rs.500/-, in default, to undergo one month simple imprisonment and also sentenced them to undergo two years simple imprisonment for the offence under Section 471 IPC and to pay a fine of Rs.500/-, in default, to undergo one month simple imprisonment.

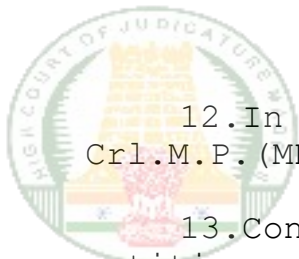
7.The accused 1 and 3 challenging the judgment of conviction and sentence have preferred an appeal in C.A.Nos.127 & 126 of 2018 respectively and the learned II Additional District and Sessions Judge, Thanjavur, upon considering the materials and on hearing the arguments on both sides, has passed the impugned judgment dated 30.04.2021 setting aside the conviction for the offence under Section 471 IPC, but confirmed the conviction and sentence imposed for the offences under Sections 465 and 468 as against the first accused and under Sections 465 r/w 34 and 468 r/w 34 IPC as against the third accused. Aggrieved by the said judgment, the accused 1 and 3 have come forward with the present criminal revisions.

8.It is evident from the records that the petitioner in Crl.M.P.(MD)No.7829 of 2022 earlier filed two applications for suspension of sentence and for exemption from surrendering before the trial Court in Crl.M.P.(MD)Nos.7022 and 7023 of 2021 and when the said petitions came up for hearing, the learned Judge of this Court, after coming to know that the petitioner did not surrender before the Court below and also taking note of the gravity of the offence committed, dismissed the petitions.

9.The learned counsel for the petitioner in Crl.M.P.(MD)No.7829 of 2022 would submit that after the dismissal of the earlier petitions, the petitioner has surrendered before the concerned Court on 01.04.2022 and is in prison till now.

10.The learned counsel for the petitioner in Crl.M.P.(MD) No.5775 of 2022 would submit that the petitioner has surrendered before the concerned Court on 17.06.2022 and is in prison till now.

11.Considering the fact that the petitioner in Crl.M.P.(MD) No.5775 of 2022/first accused is in prison from 17.06.2022 and also considering the gravity and nature of the offence alleged against him, this Court is not inclined to suspend the sentence against the petitioner/first accused.



12. In the result, the Criminal Miscellaneous Pet. in Crl.M.P.(MD)No.5775 of 2022 is dismissed.

13. Considering the nature of charges levelled against the petitioner in Crl.M.P.(MD)No.7829 of 2022/third accused and also the fact that he is in jail from 01.04.2022, this Court is inclined to suspend the sentence as against the petitioner/third accused.

14. In the result, the Criminal Miscellaneous Petition in Crl.M.P.(MD)No.7829 of 2022 is allowed. Accordingly, the relief of suspension of sentence and bail is granted to him on the following conditions:-

(i) The petitioner in Crl.M.P.(MD)No.7829 of 2022 shall 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 learned Judicial Magistrate No.I, Thanjavur;

(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 petitioner in Crl.M.P.(MD)No.7829 of 2022 shall report before the trial Court at 10.30 a.m., on all working days 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/-

18/07/2022

/ TRUE COPY /

19/07/2022

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 II ADDITIONAL DISTRICT AND SESSIONS JUDGE
CUM FAST TRACK COURT, THANJAVUR.

2 THE JUDICIAL MAGISTRATE NO.I, THANJAVUR.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.

4 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH POLICE STATION,
THANJAVUR DISTRICT.

5 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

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

+1 CC to M/s.R.VENKATESAN, Advocate (SR-7267[I] dated 18/07/2022)

ORDER IN

CRL MP(MD) No.7829 & 5775 of 2022

IN

CRL RC(MD) Nos.638 of 2021 & 434 of 2022

Date :18/07/2022

RS/VR/SAR.3 (19.07.2022) 5P-8C