



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

Tuesday, the Sixteenth day of August Two Thousand and Twenty Two

PRESENT

**The Hon`ble Mr.Justice K.MURALI SHANKAR**

CRL MP(MD) No.9154 of 2022  
IN  
CRL RC(MD) No.571 of 2020

SELVARAJ

... PETITIONER/PETITIONER

**Vs**

THE STATE REP.BY  
THE INSPECTOR OF POLICE  
IDOL WING,  
CHENNAI-32.

... RESPONDENT/RESPONDENT

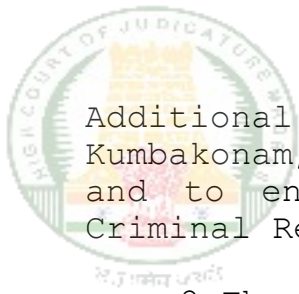
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed by the judgment made in Crl.A.No.34 of 2017 on the file of the Learned Additional District and Sessions Judge(Fast Track Court), Kumbakonam, dated 27.08.2020 confirming the conviction and sentenced imposed by the Learned Additional Chief Judicial Magistrate, Kumbakonam in C.C.No.1 of 2001, dated 02.05.2017.

**Prayer in CRL RC(MD) . 571/ 2020 :**

Pleased to set aside the judgment and conviction dated 27/08/2020 made in Crl.A.No.34 of 2017 on the file of the Additional District and Sessions Judge (Fast Track Court), Kumbakonam, Confirming the conviction and sentences imposed by the Additional Chief Judicial Magistrate, Kumbakonam in C.C.No.1 of 2001, dated 02.05.2017, and acquit the petitioner/accused.

**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.GUHAN.K, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, While admitting the CRL.RC., the court made the following order:-

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner 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 CrI.A.No.34 of 2017, and to enlarge the petitioner on bail pending disposal of the Criminal Revision.

2.The petitioner is arrayed as A10 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 petitioner guilty, convicted and sentenced him as detailed below:-

| Accused | Convicted under Section   | Sentence of Imprisonment/fine imposed                                                                                        |
|---------|---------------------------|------------------------------------------------------------------------------------------------------------------------------|
| A10     | 401 IPC                   | Rigorous Imprisonment for 3 years and imposed a fine of Rs.500/-, in default, to undergo simple imprisonment for 3 months;   |
|         | 120-B r/w Section 457 IPC | Rigorous Imprisonment for 3 years and imposed a fine of Rs.5,000/-, in default, to undergo simple imprisonment for 6 months; |
|         | 120-B r/w Section 380 IPC | Rigorous Imprisonment for 3 years and imposed a fine of Rs.2,000/-, in default, to undergo simple imprisonment for 6 months; |
|         | 457 IPC                   | Rigorous Imprisonment for 3 years and imposed a fine of Rs.5,000/-, in default, to undergo 6 months simple imprisonment;     |
|         | 380 IPC                   | Rigorous Imprisonment for 3 years and imposed a fine of Rs.2,000/-, in default, to undergo 6 months simple imprisonment; and |
|         | 379 IPC                   | Rigorous Imprisonment for 3 years and imposed a fine of Rs.500/-, in default, to undergo 6 months simple imprisonment.       |

All the above sentences were directed to run concurrently.

3.It is the case of the prosecution that the petitioner along with other accused conspired between themselves to burglarise 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 petitioner 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 petitioner has filed Crl.R.C.(MD)No.571 of 2020 along with the above Miscellaneous Petitions, seeking suspension of sentence.

5. No doubt, the petitioner's earlier application was dismissed by this Court, in Crl.M.P.(MD)No.5071 of 2022, dated 27.01.2020.

6. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

7. The learned counsel appearing for the petitioner would submit that the co-accused were already granted suspension of sentence by this Court in Crl.M.P.(MD)Nos.6973 and 5813 of 2022, dated 12.07.2022. He would further 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.

8. The learned Additional Public Prosecutor would submit that there are enough materials available on record against the petitioner 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.

9. 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.

10. The learned counsel 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 revision and further the criminal revision is not likely to be taken up for final hearing, this Court is of the considered view that the petitioner herein is entitled to the relief of suspension of sentence.

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

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- 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 petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until further orders and if he is 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 his absence, as directed by the trial Court.

sd/-

16/08/2022

/ TRUE COPY /

17/08/2022

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

**TO**

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE  
(FAST TRACK COURT), KUMBAKONAM.
- 2 THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE,  
KUMBAKONAM.
- 3 THE CHIEF JUDICIAL MAGISTRATE,  
THANJAVUR DISTRICT AT KUMBAKONAM.
- 4 THE SUPERINTENDENT  
CENTRAL PRISON, TRICHIRAPPALLI.
- 5 THE INSPECTOR OF POLICE  
IDOL WING, CHENNAI-32.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

+1. C.C. to M/S.GUHAN.K Advocate SR.No.8550

**ORDER IN**

CRL MP(MD) No.9154 of 2022  
IN  
CRL RC(MD) No.571 of 2020  
Date :16/08/2022

sj i

SA/VR/SAR.3/17.08.2022/4P/8C

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