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CrI.M.P.No.1507/2023 in CrI.RC.No.193/2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 20.02.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE V.SIVAGNANAM**

**CrI.M.P.No.1507 of 2023**

**in**

**CrI.RC.No.193 of 2023**

C. Kutta @ Suresh  
...petitioner

/vs/

The State, represented by the  
Inspector of Police,  
Virinjipuram Police Station,  
Vellore District.  
Cr.No.29 of 2015

.. Respondent

**Prayer :** Criminal Miscellaneous Petition has been filed under Section 397 (2) of CrI.P.C., to suspend the sentence of seven years Rigorous Imprisonment under section 342, 397 IPC (two counts) passed in C.A.No.17 of 2019, vide judgment dated 18.07.2022 on the file of Principal District and Sessions Judge, Vellore, Vellore District, modifying the judgment in S.C.No.62 of 2015 on the file of the Chief Judicial Magistrate, Vellore, Vellore District, vide order dated 05.02.2019.

For petitioner ... Mr. M. Sathishkumar

For Respondent ... Mr.V.Meganathan, GA (crl.side)



## ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence of seven years Rigorous Imprisonment u/s.342, 397 IPC (two counts) passed in C.A.No.17 of 2019, vide judgment dated 18.07.2022 on the file of the Principal District and Sessions Judge, Vellore, Vellore District, modifying the judgment in S.C.No.62 of 2015 on the file of the Chief Judicial Magistrate, Vellore, Vellore District, vide order dated 05.02.2019.

2. The petitioner, who was A3 in S.C.No.62 of 2015 was convicted and sentenced by the trial court as follows:

| <b><i>Petitioner's Rank</i></b> | <b><i>Provision under which convicted</i></b> | <b><i>Sentence</i></b>               |
|---------------------------------|-----------------------------------------------|--------------------------------------|
| A3                              | U/s.342 of IPC                                | To undergo RI for six months;        |
|                                 | U/s.294(b) IPC                                | To undergo RI for 3 months;          |
|                                 | U/s.397 IPC (2 counts) r/w. 34 IPC            | To undergo 7 years RI for each count |

The sentences of imprisonments were ordered to run concurrently.

3. The judgment of conviction and sentence imposed on the petitioner by the trial court was modified by the judgment dated 18.07.2022 of the



Principal District and Sessions Judge, Vellore, Vellore District in C.A.No.17 of 2019 to the effect that the conviction and sentence imposed against the petitioner under section 294(b) is set aside and he is acquitted from the above charge. In respect of other charges under sections 342 and 397 (2 counts) IPC, the sentence and conviction imposed on him was confirmed. Challenging the above conviction and sentence, the petitioner has filed CrI.R.C. along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. The learned counsel for the petitioner submitted that the judgment of the trial court and the lower appellate court is contrary to law, weight of evidence and probabilities of the case. He would further submit that there are arguable points in this Revision and the petitioner has every chance to succeed in this Criminal Revision Case. Thus, he prayed for suspension of sentence till the disposal of this Criminal Revision Petition.

5. The learned Govt. Advocate (crl.side) objected to grant suspension sentence stating that the petitioner has committed grave offence.

6. Heard both sides and perused the entire material evidence on record.



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7. On perusal of prosecution evidence, PW1-Arunkumar has clearly identified the accused persons and also deposed about the overtact made by all the accused. In such circumstances, I find no merits in granting suspension of sentence to the petitioner. Therefore, this petition is dismissed.

20.02.2023

(3/3)

msr

To

1. The Principal District and Sessions Judge, Vellore, Vellore District.
2. The Judicial Magistrate, Vellore.
3. The Public Prosecutor, High Court, Madras.

**V.SIVAGNANAM, J.**



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msr

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