



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

Wednesday, the Twenty Fifth day of January Two Thousand and Twenty
Three

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PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.626 of 2023

IN

CRL RC(MD) No.289 of 2021

MURUGAN

... PETITIONER/PETITIONER

Vs

State Rep.by
THE INSPECTOR OF POLICE
CBCID, THENI DISTRICT.

... 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 in CC.No.215 of 2009 on the file of the Judicial Magistrate, Theni dt.28.03.2014 which was confirmed in Crl.A.No.21 of 2014 on the file of the Additional District and Sessions Court, Periyakulam dt.29.01.2021 pending disposal of the above Criminal Revision Petition.

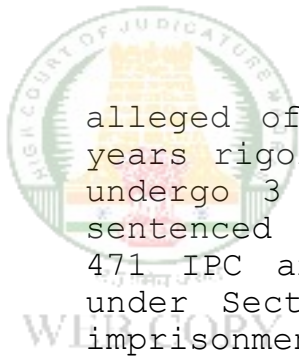
Prayer in CRL RC(MD).289/2021 :

To set aside the conviction passed in Crl.A.No.21 of 2014 on the file of the Additional District and Sessions Court, Periyakulam dated 29.01.2021 which was confirmed in C.C.No.215 of 2009 on the file of the Judicial Magistrate, Theni dated 28.03.2014 and allow the Criminal Revision Petition.

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.VAKESWARAN C, Advocate for the petitioner and of MR.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has filed to suspend the sentence imposed by the the learned Judicial Magistrate, Theni, by the Judgment, dated 28.03.2014, in C.C.No.215 of 2009, which was confirmed by the learned Additional District and Sessions Judge, Theni, at Periyakulam, by the Judgment, dated 29.01.2021, in Crl.A.No.23 of 2014, pending disposal of the Criminal Revision.

2.The learned counsel appearing for the petitioner submitted
<https://www.mhc.tn.gov.in/judis> one the petitioner has been convicted by the trial Court for the



alleged offence under Section 465 IPC and sentenced to 2 years rigorous imprisonment, under Section 467 IPC and sentenced to undergo 3 years rigorous imprisonment, under Section 468 IPC and sentenced to undergo 3 years rigorous imprisonment, under Section 471 IPC and sentenced to undergo 2 years rigorous imprisonment, under Section 420 IPC and sentenced to undergo 3 years rigorous imprisonment, under Section 170 IPC and sentenced to undergo 1 year rigorous imprisonment and under Section 15(4) of Homeopathy Central Council Act, 1973, and sentenced to undergo 6 months simple imprisonment. The sentences were ordered to run concurrently. Against, the conviction and sentence, the petitioner has filed an appeal before the appellate Court. The appellate Court dismissed the appeal and confirmed the conviction and sentence imposed by the trial Court.

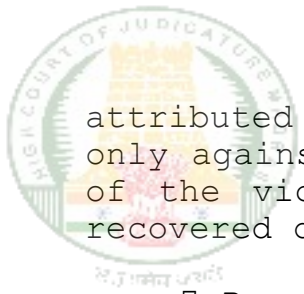
3.The case of the prosecution in brief:

On 19.09.1997, accused No.2 registered an organization called Theni District Consumer and Human Rights Protection Centre. He was the Secretary in it. Accused No.2 also set up an office in the first accused's Hospital, and the first accused was stated to be working as President of the said Organization. They also printed Letter Pad, Rubber Stamp, Visiting Card etc., and also made the public to believe that the organization is a genuine one. The complainant approached them for a remedy. They received Rs.8,000/- as advance for litigation expenses. again they collected Rs.8,000/- as fee for Lawyer. Later the defacto complainant got doubt and lodged the complaint.

4.On the basis of the above said occurrence, complaint was lodged and FIR in Crime No.01 of 2009 has been registered. After completing the formalities of the investigation, final report was filed charging the accused for the offence punishable under Sections 465, 467, 468, 471, 420, 170 IPC and Section 15(4) of Homeopathy Central Council Act, 1973. Before the trial Court on behalf of the prosecution 27 witnesses have been examined and 48 documents were marked. Apart from that one material object was also marked. On the side of the accused, none was examined and no documents were marked.

5.At the conclusion of the trial, the trial Court came to the finding that the charges that were framed against the accused persons were proved beyond the reasonable doubt. On that basis, the accused were found guilty, convicted and sentenced above. Challenging the above said conviction and sentence, the first accused filed appeal before the appellate Court and that was also dismissed in C.A.No.23 of 2014. Against which this revision has been preferred. Pending revision, this petition has been filed seeking suspension of sentence.

6.This petitioner is 63 years old woman. The learned counsel for the petitioner would submit that even as per the allegation made in the FIR and in the final report, no specific overt act is



attributed against this petitioner. The allegation have been made only against the co-accused. The complaint was not given by any one of the victims. The hard disk alleged to have been used was not recovered during the course of investigation.

7. Per contra, the learned Additional Public Prosecutor submitted that serious allegation of creating false records has been made and have also cheated the public by collecting money. The offence of this nature dis-entitles the petitioner from claiming the benefit of the suspension of sentence. As per the case of the prosecution this petitioner claims himself as a Degree holder in Homeopathic Medicine and Surgery and she has also printed the Visiting cards, Letter pads, Rubber Stamps etc., Similarly the second accused also claimed that he is an Advocate by profession and also started an organization and collected money from the public under the guise of giving service for legal issues. No doubt that serious allegations have been made against both the accused persons and so far the allegation against this petitioner is concerned, she claimed herself to be Homeopathic Medicine Practitioner, which, in fact, she is not. However, considering the fact that the petitioner is a woman and aged about 63 years, this Court is inclined to allow this petition.

8. Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision and the petitioner is directed to be enlarged on bail on her executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate, Theni, and on further condition that the petitioner shall appear before the concerned Court once in a week i.e., on the first working day of every week at 10.30 a.m. pending revision.

sd/-

25/01/2023

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25/01/2023

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

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TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, PERIYAKULAM.

2 THE JUDICIAL MAGISTRATE, THENI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.

4 THE INSPECTOR OF POLICE, CBCID, THENI DISTRICT.



5 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.C.VAKEESWARAN, Advocate (SR-1182[I] dated 25/01/2023)

ORDER

IN

CRL MP(MD) No.626 of 2023

IN

CRL RC(MD) No.289 of 2021

Date :25/01/2023

RS/VR/SAR. (25.01.2023) 4P-8C