



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

Thursday, the Sixth day of July Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL.M.P. (MD) Nos.3399 & 3404 of 2023
in
CRL.R.C. (MD) No.243 of 2023

L.SUBRAMANIAN

...REVISION PETITIONER/
APPELLANT/ACCUSED NO.2
IN BOTH MPS

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
COMMERCIAL CRIME INVESTIGATION WING,
SIVAGANGAI DISTRICT.
CRIME NO. 11 OF 1994

... RESPONDENT/RESPONDENT/
COMPLAINANT
IN BOTH MPS

PRAYER IN CRL MP(MD) No.3399 of 2023:

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 passed in C.C No. 71 of 2001 on the file of the Judicial Magistrate No.2, Sivagangai and the same was confirmed in C.A No. 15 of 2017 dated 23.12.2022 on the file of the Learned Additional District and Sessions Court Sivagangai pending disposal of the above said Criminal Revision.

Prayer in CRL MP(MD) . 3404/ 2023 :

To exempt the petitioners from surrendering in C.C N. 71 of 2001 on the file of the Judicial Magistrate No.2, Sivagangai and the same was confirmed in C.A No. 15 of 2017 dated 23.12.2022 on the file of the Learned Additional District and Sessions

Prayer in CRL RC(MD) . 243/ 2023 :

To call for the records C.C No. 71 of 2001 on the file of the Judicial Magistrate No.2, Sivagangai and the same was confirmed in C.A No. 15 of 2017 dated 23.12.2022 on the file of the Learned Additional District and Sessions Court, Sivagangai

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.MOHIDEEN BASHA.N, Advocate for the petitioner and of M/S.R.SIVAKUMAR, Government Advocate(Crl.side) on behalf of the Respondent, while admitting the Criminal RC., the court made the following order:-



This petition is filed to suspend the sentence imposed by the learned Additional District and Sessions Judge, Sivagangai, in CrI.A.No.15 of 2017 dated 23.12.2022, in confirming the conviction and sentence imposed by learned Judicial Magistrate No.2, Sivagangai, in C.C.No.71 of 2001, dated 04.01.2017, pending disposal of the Criminal Revision.

2. The learned counsel for the petitioner would submit that the petitioner was convicted by the learned Judicial Magistrate No.2, Sivagangai, for the offences under Sections 408, 420, 467 & 471 IPC and sentenced him to undergo 1 year rigorous imprisonment and to pay a fine of Rs.1000/-, in default to undergo 1 month simple imprisonment for each offence, and for the offence under Section 477 (A) IPC, sentenced him to undergo 1 year rigorous imprisonment. The learned Additional District and Sessions Judge, Sivagangai, dismissed the appeal filed by the petitioner in CrI.A.No.15 of 2017.

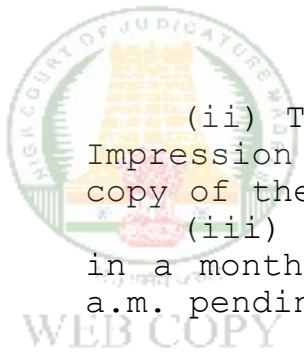
3. The learned counsel for the petitioner submitted that there is number of witnesses turned hostile and also the prosecution did not adduce the sufficient evidence to prove the misappropriation of amount stated in the charge. Further, he also challenged the validity of the enquiry report submitted under Section 81 of Tamilnadu Co-operative Societies Act and he further submitted that the petitioner is aged about 76 years and he is in bed-ridden. Hence, he prayed for suspending the sentence imposed upon the petitioner.

4. The learned Government Advocate (CrI.Side) submitted that the petitioner committed a serious offence of misappropriation and both the Courts below, on appreciation of evidence rendered the conviction and sentence of imprisonment. So, he seeks dismissal of this petition.

5. This Court has carefully considered the submission made by the counsel for the petitioner and also perused the materials available on record.

6. Considering the fact that the petitioner is aged about 76 years and he is in bed-ridden and as rightly contended by the learned counsel for the petitioner that there are some arguable points involved in the criminal revision and since there was no antecedent against the petitioner, this Court is inclined to grant suspension of sentence and accordingly this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision with the following conditions:-

(i) The petitioner is directed to be enlarged on bail on his 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 learned Judicial Magistrate No.2, Sivagangai.



(ii) The sureties shall affix their photographs and Left Impression in the surety bond and the concerned officer may obtain a copy of their Aadhar or Bank Pass Book to ensure their identity.

(iii) The petitioner shall appear before the trial Court once in a month i.e., on the first working day of every month at 10.30 a.m. pending revision.

7.The petitioner is exempted from surrendering before the Trial Court.

sd/-

06/07/2023

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

DSS

TO

1.THE JUDICIAL MAGISTRATE NO.2, SIVAGANGAI

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI.

3.THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
SIVAGANGAI

4.THE INSPECTOR OF POLICE
COMMERCIAL CRIME INVESTIGATION WING,
SIVAGANGAI DISTRICT.

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

ORDER

IN

CRL.M.P.(MD)Nos.3399 & 3404 of 2023
in

CRL.R.C.(MD)No.243 of 2023

Date :06/07/2023

RK (07/07/2023) 3P/6C