



CRL.M.P(MD).No.4756 and 5249 of 2023

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

Monday, the Sixth day of November Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL.M.P(MD).No.4756 and 5249 of 2023

in

CRL.R.C(MD).No.328 of 2023

BASKARAN

... PETITIONER/REVISION PETITIONER
in BOTH THE PETITIONS

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
MATHICHIYAM CRIME POLICE STATION,
MADURAI.

CRIME NO. 764/2014

... RESPONDENT/RESPONDENT
in BOTH THE PETITIONS

Criminal Miscellaneous 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 CrI A No. 108 of 2021 on file of the V Additional District and Sessions Court, Madurai vide Judgment dated 20.12.2022 which confirmed the Judgment passed by the Judicial Magistrate court No.II, Madurai in C.C.No.07 of 2015 vide Judgment dated 11.03.2020, till the disposal of the Revision.

Prayer in CRL MP(MD). 5249/ 2023 :

To grant Exemption from surrendering the petitioner before the Lower Court in connection with the sentence imposed in CrI.A.No.108/2021 on the file of V Additional District and Sessions Court, Madurai vide Judgment dated 20/12/2022 which confirmed.



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Prayer in CRL RC(MD). 328/ 2023 :

To call for the records relating to the Judgment passed by the V Additional District and Sessions court, Madurai in Crl A No. 108 of 2021 vide Judgment dated 20.12.2022 which confirmed the Judgment passed by the Judicial Magistrate court No.II, Madurai in C.C.No.07 of 2015 vide Judgment dated 11.03.2020 and set aside the same.

Common Order : These Criminal Miscellaneous Petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.GOWRISHANKAR R, Advocate for the petitioner in both the cases and of Mr.S.MANIKANDAN, Government Advocate(Crl.side) on behalf of the Respondent in both the cases while admitting the Criminal Revision Case., the Court made the following order:-

These Criminal Miscellaneous Petitions are filed to suspend the sentence passed by the learned Judicial Magistrate Court No.II, Madurai, in C.C.No.07 of 2015, dated 11.03.2020, which was confirmed in Criminal Appeal No.108 of 2021, dated 20.12.2022 by the learned V Additional District and Sessions Court, Madurai, enlarge the petitioner on bail pending disposal of the Criminal Revision Case and for exemption of his surrender pursuant to the aforesaid Judgment.

2. The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court for the alleged offence under Section 379 of Indian Penal Code and sentenced him to undergo simple imprisonment for a period of three years and to pay a fine of Rs.1000/- (Rupees one Thousand only) in default, to undergo six months simple imprisonment, in C.C.No.07 of 2015, on the file of the learned Judicial Magistrate Court No.II, Madurai.



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3. The learned V Additional District and Sessions Court, Madurai, confirmed the conviction and sentence and dismissed the Criminal Appeal No.108 of 2021, dated 20.12.2022. Challenging the same, the Criminal Revision Case has been filed before this Court along with these miscellaneous petitions.

4. It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

5. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he opposed to grant suspension of sentence.

6. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

7. 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



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revision and further the criminal revision is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

8. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision with the following directions:-

(i) The petitioner is directed to be enlarged on bail on condition that the petitioner 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 Court No.II, Madurai.

(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 once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders.



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9. The petitioner is not exempted from surrendering before the trial Court and the petitioner is directed to surrender before the learned learned Judicial Magistrate Court No.II, Madurai, within a period of two weeks from the date of receipt of copy of this order. Hence, Crl.M.P.(MD)No.5249 of 2023 is dismissed.

sd/-

06/11/2023

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/11/2023

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

TTA

TO

- 1 THE V ADDITIONAL DISTRICT AND
SESSIONS JUDGE, MADURAI.
- 2 THE JUDICIAL MAGISTRATE NO.II
MADURAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
- 4 THE INSPECTOR OF POLICE
MATHICHIYAM CRIME POLICE STATION, MADURAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



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COPY TO:-

THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (CALL FOR RECORDS)

+1 CC to M/s.R.GOWRISHANKAR, Advocate (SR-15991[I] dated 06/11/2023)

ORDER
IN
CRL.M.P(MD).No.4756 and 5249 of 2023
in
CRL.R.C(MD).No.328 of 2023
Date :06/11/2023

SS/JGB/SAR- /22/11/2023/6P/8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023