



CRL MP(MD) No.6999 of 2023

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

Friday, the Twenty First day of July Two Thousand and Twenty Three

PRESENT

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

CRL MP(MD) No.6999 of 2023

IN

CRL RC(MD).479 of 2023

1 B.SAKTHIVEL

2 SAKTHI

... PETITIONERS/PETITIONERS/
APPELLANTS/ACCUSED 3 & 4

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
NARIKUDI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
IN CRIME NO.210/2010.

... RESPONDENT/RESPONDENT/
RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioners on bail by suspending the sentence imposed through the Judgement delivered by the Learned Additional District Sessions Judge, Virudhunagar in CA.No.34/2015 vide Judgement dt.1/4/2022 as well as verdict pronounced by the Learned Judicial Magistrate, Aruppukottai in C.C.No.67/2011 vide judgment dated 28.06.2012 pending the disposal of the main criminal revision petition on the file Hon'ble Court.

Prayer in CRL RC(MD). 479/ 2023 :

To call for the records pertaining to the judgement delivered by the Additional District and Sessions Judge, Virudhunagar in CA.No.34/2015 dt.1/4/2022 confirming the judgement passed by the learned Judicial Magistrate, Aruppukottai in

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



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CC No.67/2011 dated 28.06.2012 and set aside the same.

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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.RAJESWARI A S, Advocate for the petitioners and of Mr.T.SENTHIL KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed on the petitioner by the learend Judicial Magistrate, Aruppukottai in C.C.No.67 of 2011 dated 28.06.2012, which was confirmed by the leraned Additional District and Sessions Judge, Virudhunagar, in C.A.No.34 of 2015, dated 01.04.2022.

2. The case of the prosecution is that on 05.12.2010, at about 07.00 p.m., the petitioners and other accused had come to the occurrence place and stolen 54 iron jockeys belong to L & T Company, which were placed on the bridge No.246 situated in the east of Irunchirai Railway gate signal for construction of broad gauge railway bridge from Manamadurai to Virudhunagar.

3. On the basis of the complaint lodged by P.W.1, a case came to be registered in Crime No.210 of 2010 for the offences under Section 379 r/w 34 of IPC.

4. The respondent police, after completing the investigation, has laid a final report for the offences under Section 379 r/w 34 of IPC. The same was taken on file in C.C.No.67 of 2011, on the file of the learned Judicial Magistrate, Aruppukottai.

5. During trial, the prosecution has examined 9 witnesses as P.W.1 to P.W.9 and



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exhibited 11 documents as Ex.P.1 to Ex.P.11 and marked 5 Material Objects as M.O.1 to M.O.5. However, neither a witness was examined nor a document was exhibited on the side of the accused.

6. The learned Judicial Magistrate, Aruppukottai, after full-fledged trial, has passed the judgment in C.C.No.67 of 2011, dated 28.06.2012 and convicted the petitioners/accused for the offence under Section 379 of IPC and sentenced them to undergo 2 years Rigorous Imprisonment and to pay a fine of Rs.500/- each, in default, to undergo 3 months Simple Imprisonment. Challenging the above said conviction and sentence, the petitioners preferred the Criminal Appeal before the Additional District and Sessions Judge, Virudhunagar in C.A.No.34 of 2015. However, the same was dismissed on 01.04.2022, thereby confirming the punishment imposed on the petitioners. Aggrieved over the above said conviction and sentence, imposed by the Courts below, the petitioners preferred the present Criminal Appeal along with the present Miscellaneous Petition seeking for suspension of sentence.

7. The learned counsel for the petitioner would 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. Further, the recovery of properties are not properly proved. He would further submit that the petitioner is surrendered and he is in custody from 05.07.2023. Hence, he seeks suspension of



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sentence.

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8. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioners and hence, he strongly opposed this petition.

9. This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

10. The petitioner is said to have committed the offence under Section 379 of IPC. It is the specific case of the petitioner that the recovery of properties was not proved. Further, the learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. So this Court prima facie satisfied 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 in the near future and as such, this Court is of the considered view that the petitioners herein are in custody from 05.07.2023, hence, the petitioners are entitled to the relief of grant of suspension of sentence.

11. Accordingly, the relief of suspension of sentence is granted to the petitioners on the following conditions:-

(i) The petitioners shall execute a bond for a sum of Rs.25,000/-



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(Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Aruppukottai.

(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 petitioners shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
21/07/2023

/ TRUE COPY /

24/07/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SBN
TO

1 THE ADDITIONAL DISTRICT SESSIONS JUDGE, VIRUDHUNAGAR.

2 THE JUDICIAL MAGISTRATE, ARUPPUKOTTAI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

4 THE INSPECTOR OF POLICE
NARIKUDI POLICE STATION,
VIRUDHUNAGAR DISTRICT.



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5 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI

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

+1. C.C. to M/S.RAJESWARI A S Advocate SR.No.11099 DT.21/07/2023

ORDER IN
CRL MP(MD) No.6999 of 2023
IN
CRL RC(MD).479 of 2023
Date :21/07/2023

SA/DD/SAR. /24.07.2023/6P/8C

Madurai Bench of Madras High Court is issuing certified
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