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

Tuesday, the Twenty Second day of August Two Thousand and Twenty Three

PRESENT

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

CRL MP(MD) No.8625 of 2023

in

CRL RC(MD)No.600 of 2023

MOHANRAJ

... PETITIONER/PETITIONER

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
VENGAMEDU POLICE STATION,
KARUR DISTRICT.

CRIME NO.198 OF 2016.

... RESPONDENT/RESPONDENT

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 passed against the Petitioner in Crl.A.No.64 of 2022 dated 18.4.2023 on the file of the Principal District Judge, Karur by confirming the sentence and conviction passed in CC.No.118 of 2017 dt.13.5.2022 on the file of the Judicial Magistrate No.I, Karur.

PRAYER in CRL RC(MD)No.600 of 2023:

To call for the records and set aside the judgment passed in Crl.A.No.64 of 2022 dated 18.04.2023 on the file of the Principal District Judge, Karur confirming the judgment and sentence passed in C.C.No.118 of 2017 dated 13.05.2022 on the file of the Judicial Magistrate No.I, Karur.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of



M/S.MATHIYALAGAN R, Advocate for the petitioner and of Mr.T.SENTHIL KUMAR, Additional Public Prosecutor on behalf of the Respondent while admitting the CRL RC., the Court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner in CrI.A.No.64 of 2022 dated 18.04.2023 on the file of the Principal District Judge, Karur by confirming the sentence and conviction passed in C.C.No.118 of 2017 dated 13.05.2022 on the file of the Judicial Magistrate No.I, Karur.

2. It is the case of the prosecution that on 15.06.2016 at 06.00 p.m., P.W.1 stationed his two wheeler bearing registration No. TN-47-AH-2093 near the Panjamadevi junction, the petitioner said to have stolen the same. Hence, P.W.1 gave the complaint before the respondent police and the same was registered in Crime No.198 of 2016 for the alleged offence under Section 379 of IPC. The respondent police arrested the accused and filed the final report after the completion of the investigation before the learned Judicial Magistrate No-I, Karur.

3. The petitioner has been convicted by the learned Trial Judge for the offence under Section 379 of IPC in C.C.No.118 of 2017 dated 13.05.2022 by the learned Judicial Magistrate No.I, Karur and sentenced him to undergo 2 years simple imprisonment. Aggrieved over the same, the petitioner/accused filed the appeal in



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C.A.No.64 of 2022, before the learned Principal District Judge, Karur. The same was dismissed by confirming the order of the learned Judicial Magistrate No-I, Karur in C.C.No.118 of 2017. Challenging the same, the petitioner filed the Criminal Revision Case before this Court.

4. The learned counsel for the petitioner submitted that the respondent police registered a false case against the petitioner and the recovery of the vehicle has not proved. Both the Courts below have not considered the above aspect, hence, there is a perversity in the finding of both the Courts below. Therefore, he seeks suspension of sentence imposed on the petitioner.

5. The learned Government Advocate (Crl.side) appearing for the respondent would contend that the Trial Court has rightly convicted the petitioner on the basis of the evidence and the petitioner has no *prima facie* case in this revision. The petitioner has a number of previous cases and hence, he seeks to dismiss this petition.

6. Therefore, this Court directed the learned Government Advocate (Criminal Side), to produce the previous case particulars of the petitioner. The learned Government Advocate (Criminal side) furnished the following particulars:



i) totally 11 cases were registered, out of which, 6 cases were acquitted, in 4 case the learned trial judge passed the orders under Section 4(1) of the Probation Offenders Act 1958.

ii) after the above registration of the above cases, the petitioner never involved in the similar offences.

7. This Court considered the rival submissions made on either side and perused the materials available on record.

8. According to the petitioner, the case was registered with false allegation. There was no recovery is made as alleged by the prosecution. Considering the above submission and also taken into the account of the petitioner never involved any offence after the above incidents, and the learned trial judge passed orders under section 4(i) of Probation Offender Act 1958 in previous case, this Court is inclined to allow this petition.

9. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with the following conditions:-



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(i) 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 Judicial Magistrate No-I, Karur.

(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 concerned Court daily at 10.30 a.m., until further orders.

sd/-
22/08/2023

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/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SBN/DSS

TO

- 1 THE PRINCIPAL DISTRICT JUDGE
KARUR
- 2 THE JUDICIAL MAGISTRATE NO.I, KARUR.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR.
- 4 THE INSPECTOR OF POLICE
VENGAMEDU POLICE STATION, KARUR DISTRICT.



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

+1 CC to M/s.R.MATHIYALAGAN, Advocate (SR-12567[I] dated 22/08/2023)

ORDER
IN
CRL MP(MD) No.8625 of 2023
in
CRL RC(MD)No.600 of 2023
Date :22/08/2023

SS/VR/23/08/2023/6P/7C

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