



CRL MP(MD) No.11165 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Friday, the Twenty Fifth day of August Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN
CRL MP(MD) No.11165 of 2023
and
CRL RC(MD) No.829 of 2023

JOTHIVEL

... Petitioner / Petitioner

Vs

STATE REP BY
THE SUB INSPECTOR OF POLICE
CHINTHAMANI POLICE STATION,
KARUR DISTRICT.
(CRIME NO.116 OF 2018)

... 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 imposed upon the petitioner in C.A.No.65 of 2022 on the file of the District Judge,Karur dated 19.04.2023 modifying the conviction and sentence passed in C.C.No.130 of 2018 by the Judicial Magistrate No.I,Kulithalai dated 31.05.2022 and enlarge the petitioner on bail pending disposal of the main criminal revision case.

Prayer in CRL RC(MD). 829/ 2023 :

To call for the records pertaining to the judgment of the learned District Judge,Karur passed in C.A.No.65 of 2022 dated 19.04.2023 modified the conviction and sentence of the petitioner imposed by the Judicial Magistrate No.I,Kulithalai in C.C.No.130 of 2018 dated 31.05.2022 and set aside the same.

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.S.NAGARAJAN, Advocate for the petitioner and of Mr.M.MUTHUMANIKKAM, Government Advocate (Crl. side) on behalf of the Respondent, the court made the following order:-

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



CRL MP(MD) No.11165 of 2023

WEB COPY

This petition is filed to suspend the sentence imposed by the learned Principal District Judge, Karur, in C.A.No.65 of 2022 dated 19.04.2023 modifying the conviction and sentence passed in C.C.No.130 of 2018 by the learned Judicial Magistrate No-I, Kulithalai dated 31.05.2018 and enlarge the petitioner on bail pending disposal of the main Criminal Revision Case.

2. The case of the defacto complainant is that on 04.08.2018, there arose a property dispute between the defacto complainant's family and the accused family and due to the said motive, on the same day, at about, 08.00 p.m, when the defacto complainant i.e., P.W.1 went to the house of P.W.2, all the accused came there and scolded the defacto complainant in filthy language and the petitioner/second accused assaulted the defacto complainant with aruval and cause injuries on his right head and right hand and also threatened him with dire consequences.

3. On the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.116 of 2018 for the offences under Sections 294(b), 324, 506(ii) of IPC. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 294(b), 324, 506(ii) of IPC.

5. During trial, the prosecution has examined 10 witnesses as P.W.1 to P.W.10 and exhibited 11 documents as Ex.P.1 to Ex.P.11, and M.O.1 was marked, whereas, the accused has neither adduced oral nor documentary evidence.



CRL MP(MD) No.11165 of 2023

WEB COPY

6. The learned Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, while acquitting A1 and A3, convicted the petitioner/accused No.2 for the offences under Sections 324, 506(ii) of IPC. He was sentenced to undergo 3 months rigorous imprisonment for the offence under Section 324 of IPC and to pay a fine of Rs.2,000/- and he was sentenced to undergo 3 months rigorous imprisonment for the offence under Section 506(ii) of IPC and to pay a fine of Rs.2000/- and directed the petitioner to give the fine of amount of Rs.4,000/- to P.W.1 in default, to undergo 2 weeks simple imprisonment. Challenging the above said conviction and sentence, the petitioner has preferred the Criminal Appeal in C.A.No.65 of 2022, before the learned District Judge, Karur. The learned trial Judge modified the conviction passed by the learned Judicial Magistrate No-I, Kulithalai in C.C.No.130 of 2018, dated 31.05.2022 in respect of Section 342 of IPC was confirmed and the trial Court is directed to secure the presence of the accused to undergo the period of sentence. Further, the conviction and sentence passed by the trial Court in respect of Section 506(ii) is set aside and the petitioner is acquitted from the charges for the offence under Section 506(ii) of IPC. Further, the fine amount if any paid by the appellant/accused in respect of Section 506(ii) of IPC shall be refunded to the petitioner. Aggrieved over the same, the petitioner filed present Criminal Revision Case along with the above



CRL MP(MD) No.11165 of 2023

Miscellaneous Petition seeking suspension of sentence.

WEB COPY

7. The learned counsel for the petitioner would submit that the respondent police falsely registered the case against the petitioner. Further the Court below has wrongly convicted the petitioner believing the evidence of P.W.1, P.W.5 and P.W.6 who are the close relatives and the Court below failed to note that P.W.8 turned hostile. Hence, he seeks suspension of sentence.

9. This Court has carefully considered the learned counsel for the petitioner and also perused the materials available on record.

10. 1. This Court considering the special circumstances of the case that the incident took place at the spur of the moment during the property dispute, is inclined to grant suspension of sentence.

10.2. Apart from that, there are certain infirmities and inconsistencies in this case and also certain contradictions in material particulars brought to the knowledge of this Court and hence, this Court prima facie feels 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 petitioner herein is entitled to the relief of grant of suspension of sentence.

11. Accordingly, the relief of suspension of sentence is granted to the petitioner



CRL MP(MD) No.11165 of 2023

on the following conditions:-

WEB COPY

(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 learned Judicial Magistrate No-I, Kulithalai;

(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 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/-
25/08/2023

/ TRUE COPY /

25/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SBN

To

1.The Principal District Judge, Karur.

2.The Judicial Magistrate No.I, Kulithalai.



CRL MP(MD) No.11165 of 2023

3.Do through the Chief Judicial Magistrate, Karur District.

WEB COPY

4.The Sub Inspector of Police,
Chinthamani Police Station,
Karur District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+2 CC to M/s.S.NAGARAJAN, Advocate (SR-12801[I] dated 25/08/2023)

ORDER

IN

CRL MP(MD) No.11165 of 2023

and

CRL RC(MD) No.829 of 2023

Date :25/08/2023

ED/ /SAR- (25/08/2023) 6P / 8C

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