



CRL MP(MD) No.12220 of 2023

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

Wednesday, the Thirteenth day of December Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.12220 of 2023

in

CRL A(MD)No.758 of 2023

GANESAN @ GANESAMURTHY

... PETITIONER/PETITIONER

Vs

THE INSPECTOR OF POLICE
PONMALAI POLICE STATION,
TRICHY CITY.

CRIME NO. 366 OF 2012

... 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 on the petitioner vide judgment, dated 24.07.2023 made in S.C No. 127 of 2015 passed by the learned Principal Assistant Sessions Judge, Thiruchirappalli pending disposal of the above criminal appeal.

PRAYER in CRL A(MD)No.758 of 2023:

To call for the records and set aside the Judgment dated 24.07.2023 made in S.C.No.127 of 2015 passed by the learned Principal Assistant Sessions Judge, Thiruchirappalli and allow the above criminal appeal.

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.JAMEELARASU.B, Advocate for the petitioner and of Mr.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-



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Reserved on : 27.11.2023
Pronounced on : 13.12.2023

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in S.C.No.127 of 2015, dated 24.07.2023 by the learned Principal Assistant Sessions Judge, Thiruchirappalli pending disposal of the Criminal Appeal..

2. The case of the prosecution is that on 09.09.2012 at 11.00 p.m., one Dhamotharan rode a Scooty and the defacto complainant was travelling as a pillion rider. While the motorcycle was reaching near Annachi Shop, 5th Street, Moohambigai Nagar, the petitioner waylaid them and assaulted the Dhamotharan with Aruval on his head due to previous enmity. When the defacto complainant attempted to prevent the same, the petitioner assaulted him on his left hand and assaulted Dhamotharan on his left neck and caused injuries. Based on the complaint, F.I.R. was registered in Crime No.366 of 2012 for the offence under Sections 341, 324 and 307 of IPC. After completion of investigation, final report was filed before the Principal Assistant Sessions Judge, Thiruchirappalli and the same was taken on file in S.C.No.127 of 2015.

3. Before the trial Court, on the side of the prosecution, 14 witnesses have been examined as P.W.1 to P.W.14 and 15 documents were marked as Ex.P1 to Ex.P15



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and 3 MOs marked. On the defence side, no witness was examined and no exhibit was marked.

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4. The learned Trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 24.07.2023 convicting the petitioner for the offence under Section 341 of IPC and sentenced him to undergo rigorous imprisonment for a period of one month and for the offence under Section 324 of IPC sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of three months and for the offence under Section 307 of IPC sentenced him to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs.10,000/-, in default, to undergo simple imprisonment for a period of one year. Challenging the above said conviction and sentence, the petitioner preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5. 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 and he prays to allow this petition.



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6. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

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

8. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. Considering the period of incarceration and the fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal 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.

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

(i) The petitioner/ Accused is directed to be enlarged on bail on condition that the petitioner/ Accused 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.V, Trichy;



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(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/Accused shall appear before the concerned Court on first working day of every week at 10.30 a.m., until further orders.

sd/-
13/12/2023

/ TRUE COPY /

13/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSD

TO

- 1 THE PRINCIPAL ASSISTANT
SESSIONS JUDGE, THIRUCHIRAPPALLI.
- 2 THE JUDICIAL MAGISTRATE NO.V
TRICHY
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
- 4 THE INSPECTOR OF POLICE
PONMALAI POLICE STATION, TRICHY CITY.
- 5 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY.



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

+1 CC to M/s.B.JAMEEL ARASU, Advocate (SR-17705[I] dated 13/12/2023)

ORDER
IN
CRL MP(MD) No.12220 of 2023
in
CRL A(MD)No.758 of 2023
Date :13/12/2023

SS/SAR- /13/12/2023/6P/8C

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