



CRL MP(MD) No.14258 of 2023

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

Tuesday, the Tenth day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P.VADAMALAI

CRL MP(MD) No.14258 of 2023

IN

CRL RC(MD) No.1120 of 2023

PERIYASAMY

... PETITIONER/PETITIONER

Vs

THE STATE REP.BY

THE INSPECTOR OF POLICE

TRAFFIC INVESTIGATION WING POLICE STATION,

KUMBAKONAM, THANJAVUR DISTRICT.

(CRIME NO.28/2013).

... 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 enlarge the petitioner on bail by suspending the sentence imposed upon him in Crl.A.No.53/2019 on the file of the Learned Additional District and Sessions Judge (FTC),Kumbakonam, Thanjavur District by Judgment dt.20/3/2023 confirming the conviction and sentence imposed in C.C.No.138 of 2013 on the file of the Learned Judicial Magistrate No.II, Kumbakonam, Thanjavur District by Judgment dated 08.04.19 pending disposal of the main Criminal Revision.

Prayer in CRL RC(MD). 1120/ 2023 :

To call for records and set aside the conviction and sentence imposed upon the petitioner herein in Crl.A.No.53/2019 on the file of the learned Additional District and Sessions Judge(Fast Track Court), Kumbakonam, Thanjavur District by Judgment dated 20.03.2023 confirming the Judgment dated 08.04.2019 in C.C.No.138 of 2013 on the file of the Learned Judicial Magistrate No.II, Kumbakonam, Thanjavur District and Acquit the Petitioner herein of the Charges.

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



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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.ILAYARAJA R, Advocate for the petitioner and of Mr.SANJAI GANDHI, Government Advocate on behalf of the Respondent, While admitting the Criminal Revision Petition, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the learned Judicial Magistrate No.II, Kumbakonam, Thanjavur District, in C.C.No.138 of 2013, dated 08.04.2019, which was confirmed in Criminal Appeal No.53 of 2019, dated 20.03.2023 by the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam, Thanjavur District, pending disposal of the Criminal Revision Case.

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 304(A) of Indian Penal Code and sentenced him to undergo simple imprisonment for a period of two years in C.C.No.138 of 2013, on the file of the learned Judicial Magistrate No.II, Kumbakonam, Thanjavur District.

3. The learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam, Thanjavur District, confirmed the conviction and sentence and dismissed the Criminal Appeal No.53 of 2019, dated 20.03.2023. Challenging the same, the Criminal Revision Case has been filed before this Court along with this miscellaneous petition.



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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 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/-



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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 No.II, Kumbakonam, Thanjavur District.

(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.

sd/-
10/10/2023

/ TRUE COPY /

/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA
TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE
(FAST TRACK COURT), KUMBakonam, THANJAVUR DISTRICT.

2 THE JUDICIAL MAGISTRATE NO.II,
KUMBakonam, THANJAVUR DISTRICT.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBakonam.



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4 THE INSPECTOR OF POLICE
TRAFFIC INVESTIGATION WING POLICE STATION,
KUMBAKONAM, THANJAVUR DISTRICT.

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

COPY TO:

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

+1 CC to M/s.R.ILAYARAJA, Advocate (SR-14946[I] dated 10/10/2023)

ORDER
IN
CRL MP(MD) No.14258 of 2023
IN
CRL RC(MD) No.1120 of 2023
Date :10/10/2023

SA/VRS/SAR. /19.10.2023/5P/8C

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