



CRL MP(MD) No.14181 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Wednesday, the Eleventh day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.14181 of 2023

in

CRL RC(MD) No.1111 of 2023

1 SUBBIAH

2 SARASWATHI

3 GURUSAMY

... Petitioners / Petitioners

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE
SRIVILLIPUTHUR TALUK POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(IN CRIME NO. 58/2006.)

... 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 by its order in CC No.395/2007 dated 19.06.2018 on the file of the Judicial Magistrate Court No.2 Srivilliputhur and confirmed by the Principal District and Sessions Court of Virudhunagar District at Srivilliputhur in Crl A No.84 of 2018 dated 22.08.2023 till the disposal of this Revision petition.



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Prayer in CRL RC(MD). 1111/ 2023 :

To call for records and set aside the judgement in CrIa No.84/2018 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur, dated 22.08.2023 confirming the judgment in CC No.395/2007 on the file of the Judicial Magistrate Court No.2, Srivilliputhur, dated 19.06.2018 and acquit the petitioners and allow the Criminal Revision Petition.

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.JOHN VINCENT.A, Advocate for the petitioners and of Mr.S.MANIKANDAN, Government Advocate (Crl. side) on behalf of the Respondent, while admitting the criminal revision case, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the learned Judicial Magistrate No.2, Srivilliputhur, in C.C.No.395 of 2007, dated 19.06.2018, which was confirmed in Criminal Appeal No.84 of 2018, dated 22.08.2023 by the learned Principal District and Sessions Court of Virudhunagar District at Srivilliputhur, till the 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 419 of Indian Penal Code and sentenced him to undergo simple imprisonment for a period of two years and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) in default to undergo simple imprisonment for a period of three months, for the offence under section 465 of Indian Penal Code, he was sentenced to undergo simple imprisonment for a period of two years and to pay a fine of Rs.2,000/- (Rupees Two



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Thousand only) in default to undergo simple imprisonment for a period of three months and for the offence under section 471 of Indian Penal Code, he was sentenced to undergo simple imprisonment for a period of two years and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) in default to undergo simple imprisonment for a period of three months, in C.C.No.395 of 2007, on the file of the learned Judicial Magistrate No.2, Srivilliputhur.

3. The learned Principal District and Sessions Court of Virudhunagar District at Srivilliputhur, confirmed the conviction and sentence and dismissed the Criminal Appeal No.84 of 2018, dated 22.08.2023. Challenging the same, the Criminal Revision Case has been filed before this Court along with this miscellaneous petition.

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.



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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/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.2, Srivilliputhur.

(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



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a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders.

sd/-
11/10/2023

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

TTA

To

- 1.The Principal District and Sessions Judge,
Virudhunagar District at Srivilliputhur.
- 2.The Judicial Magistrate No.II,
Srivilliputhur.
- 3.Do through the Chief Judicial Magistrate,
Virudhunagar District at Srivilliputhur.
- 4.The Inspector of Police,
Srivilliputhur Taluk Police Station,
Virudhunagar District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai. (Call for records)



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+1 CC to M/s.A.JOHN VINCENT, Advocate (SR-14978[I] dated 11/10/2023)

ORDER
IN
CRL MP(MD) No.14181 of 2023
in
CRL RC(MD) No.1111 of 2023
Date :11/10/2023

ED/VRS /SAR- (19/10/2023) 6P / 8C

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