



CRL MP(MD) No.14248 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.14248 of 2023
IN
CRL RC(MD) No.1119 of 2023

PERUMALSAMY

... PETITIONER/PETITIONER

Vs

State Rep.by
THE INSPECTOR OF POLICE
THIRUTHANGAL POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CRIME NO. 270 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 enlarge the petitioner on bail by suspending the sentence imposed upon him in C.C No. 579 of 2017 on the file of the Learned Judicial Magistrate No.II, Sivakasi and by Judgment dated 04.09.2019 which had been modified in Crl A No. 96 of 2019 on the file of the Learned Additional District and Sessions Judge, Srivilliputhur dated 26.06.2023, pending disposal of the Main Criminal Revision.

Prayer in CRL RC(MD). 1119/ 2023 :

To call for the records and set aside the conviction and sentence imposed upon the petitioners vide Judgment dated 04.09.2019 passed by the Learned Judicial Magistrate No.II, Sivakasi in C.C No. 579 of 2017 which had been modified Crl A No. 96/2019 on the file of the Learned Additional District and Sessions Judge, Srivilliputhur vide Judgment dated 26.06.2023.

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.SANJAY GANDHI, Government Advocate (Crl.Side) on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

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



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This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the learned Judicial Magistrate No.II, Sivakasi, in C.C.No.579 of 2017, dated 04.09.2019, which was modified in Criminal Appeal No.96 of 2019, dated 26.06.2023 by the learned Additional District and Sessions Judge, Srivilliputhur, pending 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 325 of Indian Penal Code and sentenced him to undergo simple imprisonment for a period of one year and to pay a fine of Rs.1000/- (Rupees One Thousand only), in default to undergo simple imprisonment for a period of three months in C.C.No.579 of 2017, on the file of the learned Judicial Magistrate No.II, Sivakasi.

3. The learned Additional District and Sessions Judge, Srivilliputhur, modified the conviction and sentence to 6 months simple imprisonment and enhanced the fine amount to Rs.6,000/- (Rupees six Thousand only) in Criminal Appeal No. 96 of 2019 dated 26.06.2023. 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.



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

(ii) The sureties shall affix their photographs and Left Thumb



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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

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/10/2023

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

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TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, SRIVILLIPUTHUR.

2 THE JUDICIAL MAGISTRATE NO.II, SIVAKASI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.

4 THE INSPECTOR OF POLICE, THIRUTHANGAL POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

+1 CC to M/s.R.ILAYARAJA, Advocate (SR-14947[I] dated 10/10/2023)



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ORDER

IN

CRL MP(MD) No.14248 of 2023

IN

CRL RC(MD) No.1119 of 2023

Date :10/10/2023

RS/JGB/SAR-(16.10.2023) 5P 7C

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