



Crl.M.P(MD)No.14871 of 2023

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

Thursday, the Nineteenth day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

Crl.M.P(MD)No.14871 of 2023

in

Crl.R.C(MD)No.1167 of 2023

KANNAN

... PETITIONER/PETITIONER

Vs

**THE STATE REP.BY,
THE INSPECTOR OF POLICE
THOGUR POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO. 71/2016**

... 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 suspend the sentence imposed on the petitioner by the Learned Principal Sessions Judge, Thanjavur in C.A No. 127 of 2023 dt. 09.08.2023 confirming the conviction and sentence passed by the Learned Judicial Magistrate, Thiruvaiyaru in C.C No. 124 of 2016 dated 05.04.2023, pending disposal of the above Criminal Revision Petition.

Prayer in Crl.R.C(MD)No.1167 of 2023:

To call for the records pertaining to the Judgment passed by the Learned Principal Sessions Judge, Thanjavur in C.A.No.127 of 2023 dated 09.08.2023 in confirming the Judgment and sentence imposed by the Learned Judicial Magistrate, Thiruvaiyaru in C.C.No.124 of 2016 dated 05.04.2023 and set aside the same and acquit the petitioner by allowing this Criminal Revision case.



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Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.THALAIMUTHARASU G, Advocate for the petitioner 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 petition has been filed to suspend the sentence imposed on the petitioner by the learned Principal Sessions Judge, Thanjavur in C.A.No.127 of 2023, dated 09.08.2023, confirming the conviction and sentence passed by the learned Judicial Magistrate, Thiruvaiyaru in C.C.No.124 of 2016, dated 05.04.2023, pending disposal of the Criminal Revision Case.

2.The learned counsel appearing for the petitioner submitted that the petitioner was convicted for the offence under Section 304(A) of IPC and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of one month in C.C.No.124 of 2016 on the file of the learned Judicial Magistrate, Thiruvaiyaru.

3.The learned Principal Sessions Judge, Thanjavur, confirmed the conviction and sentence and dismissed the Criminal Appeal No. 127 of 2023, dated 09.08.2023.



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4.It is submitted by the learned counsel appearing 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.It is submitted by the learned Government Advocate (Crl.side) appearing for State that there are enough materials available on record against the petitioner and prays for dismissal of this petition.

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 appearing 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.



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8. Accordingly, the suspension of sentence petition is allowed and the sentence of the imprisonment alone is suspended pending disposal of the revision on the following conditions:-

(i) the petitioner is directed to be enlarged on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Thiruvaiyaru;

(ii) the petitioner shall appear before said Court at 10.30 a.m. on the first working day of every English Calendar month, pending disposal of the revision.

sd/-
19/10/2023

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

vsd

TO

1.THE PRINCIPAL SESSIONS JUDGE, THANJAVUR.

2.THE JUDICIAL MAGISTRATE, THIRUVAIYARU;

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR @ KUMBAKONAM.



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4.THE INSPECTOR OF POLICE
THOGUR POLICE STATION,
THANJAVUR DISTRICT.

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

ORDER
IN
Crl.M.P(MD)No.14871 of 2023
in
Crl.R.C(MD)No.1167 of 2023
Date :19/10/2023

RK/JGB (27/10/2023) 5P /6C

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