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Crl.R.C(MD)No.1179 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.10.2023

Pronounced on : 24.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1179 of 2023

1.Moideen

2.Sathic Batcha

... Petitioners

Vs.

The State represented by
The Inspector of Police,
Thanthonimalai Police Station,
Karur.

(Crime No.51 of 2019)

... Respondent

PRAYER : This Criminal Revision has been filed under Sections 397 r/w 401 of Criminal Procedure Code, to call for the records and to set aside the order passed in Crl.M.P.No.1558 of 2023 in C.A.No.159 of 2023 dated 29.09.2023 on the file of the Principal District and Sessions Judge, Karur by allowing this Criminal Revision Petition.

For Petitioners	: Mr.M.Murugan
For Respondent	: Mr.K.Sanjay Gandhi Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case is filed against the order dated 29.09.2023 passed in Crl.M.P.No.1558 of 2023 in C.A.No.159 of 2023 on the file of the Principal District and Sessions Judge, Karur.



2.The brief facts of the case:

The revision petitioners are accused in C.C.No.95 of 2019 on the file of the Judicial Magistrate Court No.1, Karur and they found guilty for the offence under Section 454 and 380 of IPC and sentenced them to undergo Simple Imprisonment for a period of 3 years each and to pay a fine of Rs.2,000/- each, in default, to undergo Simple Imprisonment for a period of one month each for the offence under Section 454 of IPC and sentenced them to undergo Simple Imprisonment for a period of 3 years each and to pay a fine of Rs.2,000/- each, in default, to undergo Simple Imprisonment for a period of one month each for the offence under Section 380 of IPC on 07.09.2023 with direction to run the sentences concurrently. Aggrieved by the conviction and sentence the revision petitioners preferred the Criminal Appeal in C.A.No.159 of 2023 before the Principal District and Sessions Court, Karur and also filed the petition in Crl.M.P.No.1558 of 2023 under Section 439 & 389 (1) of Cr.P.C. to suspend the sentence and release them on bail. The said petition in Crl.M.P.No.1558 of 2023 was dismissed on 29.09.2023 and being aggrieved by the order, the petitioners preferred this Criminal Revision Case.

3. Heard both and perused the records in this Criminal Revision Petition.



4. The learned counsel appearing for the revision petitioners has submitted that the learned Principal Sessions Judge, Karur dismissed the petition for suspension of sentence on the ground that the petitioners did not appear on the date of pronouncement of judgment and also having some previous cases. Though the petitioners involved in many cases, the petitioners are entitled to relief under Section 389(3) of Cr.P.C. and when appeal is filed the petitioners are entitled for suspension of sentence relying on the orders of this Court passed in Crl.M.P(MD)No.10901 of 2002 in Crl.R.C.No.1684 of 2001 dated 25.10.2002 and Crl.R.C.No.1305 of 2014 dated 17.12.2014.

5.The learned Government Advocate (Crl.side) for the respondent submitted that the petitioners are habitual offenders and they have 12 previous cases of same nature of offences and out of 12 cases, 9 cases are still pending. He would further submit that at the time of judgment the petitioners failed to appear before the Trial Court and only on execution of NBW they were produced and then the conviction judgment was pronounced by the trial court and the petitioners would abscond if they are released on bail. Therefore, he strongly opposed this petition.

6.On hearing both, it is clear that at the time of judgment the petitioners did not appear before the trial court and hence, on execution of



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NBW they were produced before Trial Court on 01.09.2023 and the conviction judgment was passed on 07.09.2023. The petitioners involved in many cases and the learned Government Advocate (Crl.side) for the respondent submitted a list of cases, which are as follows:

Accused	P.S.	Crime Nos.
A1 - Moidheen	1. Fairlands P.S., Salem.	Cr.No.12 of 2018 - U/s. 380 and 454 of IPC.
	2.Fairlands P.S., Salem.	Cr.No.40 of 2018 - U/s.380, 454 and 506(2) of IPC.
	3.Pasupathipalayam P.S., Karur.	Cr.No.55 of 2019 - U/s.380 and 454 of IPC
	4.Thanthonimalai P.S., Karur.	Cr.Nos.41 of 2019 - U/s.380 & 454 of IPC.
	5.Thanthonimalai P.S., Karur.	Cr.No.51 of 2019 - U/s.380 and 454 of IPC.
	6.Pattukottai P.S., Thanjavur	Cr.No.1247 of 2021 – U/s.380 and 454 of IPC.
	7.Kovilpatti West P.S. Thoothukudi.	Cr.No.3 of 2020 – U/s.380, 454, 457 of IPC @ 380, 411, 414 & 457 of IPC.
	8.Thiruvallur Taluk P.S. Tiruvallur.	Cr.No.240 of 2019 – U/s.454 and 511 of IPC.
	9. Annanagar P.S. Madurai City.	Cr.No.1686 of 2021 – U/s.380, 457 of IPC @ 34, 380, 457 of IPC.
	10.Annanagar P.S. Madurai City.	Cr.No.1673 of 2021 – U/s.380 & 457 of IPC.
	11.Annanagar P.S. Madurai City.	Cr.No.215 of 2021 – U/s.380, 457 of IPC @ 34, 380, 457 of IPC.
	12.Annanagar P.S. Madurai City.	Cr.No.207 of 2021 – U/s.380 and 457 of IPC.



A2 - Sathic Batcha	1.Pasupathipalayam P.S. Karur.	Cr.No.55 of 2019 – U/s.380 & 454 of IPC
	2.Thathonimalai P.S. Karur.	Cr.No.51 of 2019 – U/s.380 & 454 of IPC
	3.Thathonimalai P.S. Karur.	Cr.No.41 of 2019 – U/s.380 & 454 of IPC
	4.Annanagar P.S. Madurai City.	Cr.No.1686 of 2021 – U/s.380, 457 of IPC @ 34, 380, 457 of IPC.
	5.Annanagar P.S. Madurai City	Cr.No.1673 of 2021 – U/s.380 & 457 of IPC.
	6.Annanagar P.S. Madurai City	Cr.No.215 of 2021 – U/s.380, 457 of IPC @ 34, 380, 457 of IPC.
	7.Annanagar P.S. Madurai City	Cr.No.207 of 2021 – U/s.380 and 457 of IPC.
	8.Fairlands P.S., Salem City	Cr.No.12 of 2018 - U/s. 380 and 454 of IPC.
	9.Fairlands P.S., Salem City.	Cr.No.40 of 2018 - U/s.380, 454 and 506(2) of IPC.
	10.Kovilpatti West P.S. Thoothukudi	Cr.No.3 of 2020 – U/s.380, 454, 457 of IPC @ 380, 411, 414 & 457 of IPC.
	11.Pattukottai P.S., Thanjavur	Cr.No.1247 of 2021 – U/s.380 and 454 of IPC.

Out of 12 cases, 9 cases are still pending for A1 and out 11 cases, 8 cases are still pending for A2.

7.All the cases are in similar nature of offence. It is not disputed by the petitioners. The contention of learned Government Advocate (Crl.side) that if the petitioners are released on bail, they would abscond and the pending cases would not get early disposal is acceptable one. The citations



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relied on by the counsel for the petitioners are not applicable to the facts of this case. In the above circumstances, this Court is not inclined to allow this Criminal Revision Case.

8.In the result, this Criminal Revision Case stands dismissed.

24.11.2023

NCC : Yes/ No
Index : Yes / No
Internet : Yes / No
vsd

To

- 1.The Principal District and Sessions Judge,
Karur.
- 2.The State represented by
The Inspector of Police,
Thanthonimalai Police Station,
Karur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

vsd

Pre - Delivery Order made in
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