



CRL MP(MD) No.15126 of 2023

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

Friday, the Twentieth day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.15126 of 2023

in

CRL RC(MD)No.1188 of 2023

ABDUL KAFFOOR

... PETITIONER/ APPELLANT/ ACCUSED

Vs

THE STATE REPRESENTED BY

THE INSPECTOR OF POLICE

THIRUVONAM POLICE STATION,

THANJAVUR DISTRICT.

... RESPONDENT/RESPONDENT/COMPLAINANT

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 III Additional District and Sessions Judge, Thanjavur @ Pattukottai in Criminal Appeal No.62 of 2022 dated 29.09.2023 by confirming the order passed in C.C.No.60 of 2016 on the file of the Learned District Munsif cum Judicial Magistrate at Orathanadu dated 17.08.2022 pending disposal of the above Criminal Revision Petition.

Prayer in CRL RC(MD). 1188/ 2023 :

To call for the records pertaining to the order of conviction in C.A.62 of 2022 dated 29.09.2023 passed by the Learned III Additional District and Sessions Judge, Thanjavur @ Pattukkottai in confirming the order passed by the Learned District Munsif cum Judicial Magistrate at Orathanadu in C.C.No.60 of 2016 on 17.08.2022 and set aside the same by allowing the revision petition.



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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.MAHENDRAN.K, 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 Criminal Miscellaneous Petition is filed to suspend the sentence passed by the learned District Munsif cum Judicial Magistrate, Orathanadu, in C.C.No.60 of 2016, dated 17.08.2022, which was confirmed in Criminal Appeal No.62 of 2022, dated 29.09.2023 by the learned III Additional District and Sessions Judge, Thanjavur @ Pattukkottai, enlarge the petitioner on bail 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 279 IPC and sentenced him to undergo simple imprisonment for a period of three months and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of one week and for the offence under Section 304(A) (2 counts) IPC, he was sentenced to undergo simple imprisonment for a period of one year for each count and to pay a fine of Rs.10,000/-, in default, to undergo simple imprisonment for a period of one month in C.C.No.60 of 2016, on the file of the learned District Munsif cum Judicial Magistrate, Orathanadu.



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3. The learned III Additional District and Sessions Judge, Thanjavur @ Pattukkottai, confirmed the conviction and sentence and dismissed the Criminal Appeal No.62 of 2022, dated 29.09.2023. Challenging the same, the Criminal Revision Case has been filed before this Court along with these miscellaneous petition.

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. 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 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, 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 District Munsif cum Judicial Magistrate, Orathanadu.

(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/-
20/10/2023

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

CSM



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TO

- 1 THE III ADDITIONAL DISTRICT
AND SESSIONS JUDGE,
THANJAVUR AT PATTUKKOTTAI.
- 2 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE AT ORATHANADU.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
THANJAVUR DISTRICT AT KUMBAKONAM.
- 4 THE INSPECTOR OF POLICE
THIRUVONAM POLICE STATION,
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.K.MAHENDRAN, Advocate (SR-15529[I] dated 20/10/2023)

ORDER
IN
CRL MP(MD) No.15126 of 2023
in
CRL RC(MD)No.1188 of 2023
Date :20/10/2023
(½)

SS/JGB/SAR- /31/10/2023/5P/8C

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