



CRL MP(MD) No.17157 of 2023

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

Thursday, the Fourteenth day of December Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice P. VADAMALAI
CRL MP(MD) No.17157 of 2023
in
CRL RC(MD) No.1345 of 2023

SATHISH @ SATHISH KUMAR

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
SIKKAL POLICE STATION,
SIKKAL, RAMANATHAPURAM DISTRICT.
(CRIME NO.86 OF 2012)

... 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 of Imprisonment imposed in Crl.A.No.22 of 2022 on the file of the Learned Principal District and Sessions Judge, Ramanathapuram dated 22.12.2022 confirming the conviction and sentence of imprisonment imposed in SC.No.26 of 2014 on the file of the Learned Assistant Sessions Court, Mudukulathur dated 13.12.2022 and enlarge the petitioner on bail, pending disposal of the above said Criminal Revision Petition.

Prayer in CRL RC(MD) No.1345 of 2023 :

To call for the records in Crl.A.No.22 of 2022 on the file of the Learned Principal District and Sessions Judge, Ramanathapuram, dated 22.12.2022, confirming the conviction and sentence of imprisonment imposed in S.C.No.26 of 2014 on the file of the Learned Assistant Sessions Court, Mudukulathur, dated 22.07.2022 and set-aside the judgments of the Courts below and acquit the petitioner.

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 MR.S.PRABHA, Advocate for the petitioner and of MR.S.MANIKANDAN, Government Advocate on behalf of the Respondent, the court made the following order:-

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Section 452 of Indian Penal Code and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- (Rupees Five Hundred only), in default to undergo simple imprisonment for a period of one month and for the offence under Section 307 of Indian Penal Code, he was sentenced to undergo rigorous imprisonment for a period two years and to pay a fine of Rs.500/- (Rupees Five Hundred only), in default to undergo simple imprisonment for a period of one month in S.C.No.26 of 2014, on the file of the Assistant Sessions Court, Mudukulathur.

4. The learned Principal District and Sessions Judge, Ramanathapuram, confirmed the conviction and sentence and dismissed the Criminal Appeal No.22 of 2022, dated 22.12.2022. Challenging the same, the Criminal Revision Case has been filed before this Court along with this miscellaneous petition.

5. It is submitted by the learned counsel for the petitioner that as per the prosecution, after damaging the roof tiles of the defacto complainant's house, the petitioner jumped into the house of P.W.1, however, it is admitted fact that his roof is intact and not damaged. Hence, the evidence of P.W.1 and P.W.2 that the petitioner jumped into their house through their roof is not believable. He further submitted that P.W.1 in his evidence, he stated that after the alleged incident he rushed to the Government Hospital, Ramanathapuram, and then went to Nallamuthu Hospital for



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treatment. However, P.W.21 would depose that the injured came to his Asai Hospital for treatment, the said fact is also not considered by the both Courts below. He further submitted that all the material evidence and the statements of the witnesses were sent belatedly to the Courts below, which was also not taken into consideration and there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner has not given any explanation as to why he entered into the defacto complainant's house and that there are enough materials available on record against the petitioner and hence, he opposed to grant suspension of sentence.

7. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

8. 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



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entitled to the relief of grant of suspension of sentence.

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9. 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 Assistant Sessions Court, Mudukulathur.

(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/-
14/12/2023

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14/12/2023

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

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TO

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1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, RAMANATHAPURAM.

2 THE INSPECTOR OF POLICE, SIKKAL POLICE STATION,
SIKKAL, RAMANATHAPURAM DISTRICT.

3 THE ASSISTANT SESSIONS JUDGE, MUDUKULATHUR.

4 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.M.BOOPATHI PANDIAN, Advocate (SR-17793[I] dated 14/12/2023)

ORDER IN
CRL MP(MD) No.17157 of 2023
in
CRL RC(MD) No.1345 of 2023
Date :14/12/2023

RS//SAR-(14.12.2023) 6P 7C

Madurai Bench of Madras High Court is issuing
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