



CRL MP(MD) No.16000 and 16001 of 2023

WEB COPY

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

Thursday, the Sixteenth day of November Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice P.VADAMALAI

CRL MP(MD) No.16000 and 16001 of 2023

IN

CRL A(MD) No.1003 of 2023

ESAKKIAMMAL @ PAPPA

... PETITIONER/APPELLANT
IN BOTH PETITIONS

Vs

THE INSPECTOR OF POLICE
SURANDAI CIRCLE,
SURANDAI POLICE STATION,
TENKASI DISTRICT.
CRIME NO. 36 OF 2016

... RESPONDENT/RESPONDENT
IN BOTH PETITIONS

PRAYER IN CRL.MP(MD).16000/2023:

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 execution of sentence passed in S.C No. 773 of 2017 on the file of the learned Additional District and Sessions Judge (FTC) Tenkasi dt. 23.08.2023 pending disposal of the Criminal Appeal.

PRAYER IN CRL MP(MD). 16001/ 2023 :

To pass an order to grant exemption from surrendering before the trial court for the conviction and sentence dt. 23.08.2023 passed by the learned Additional District and Sessions Judge (FTC), Tenkasi in S.C No. 773 of 2017 pending disposal of the above Criminal Appeal.

PRAYER IN CRL.A(MD).1003/2023:

Pleased to call for the records pertaining to the judgment dated 23.08.2023 passed by the Learned Additional District and Sessions Judge (FTC), Tenkasi in S.C No.773 of 2017 and set aside the same.



CRL MP(MD) No.16000 and 16001 of 2023

Order : These Criminal Miscellaneous Petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.V.SASI KUMAR, Advocate for the petitioner in both Petitions and of Mr.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent in both Petitions, While admitting the Criminal Appeal, the court made the following order:-

These Criminal Miscellaneous Petitions are filed to suspend the sentence imposed by the learned Additional District and Sessions Judge(FTC), Tenkasi, in S.C.No.773 of 2017 dated 23.08.2023 and enlarge the petitioner on bail till the disposal of this Criminal Appeal and for exemption of her surrender pursuant to the aforesaid Judgment.

2. The case of the prosecution is that the defacto complainant dumped hayricks in the vacant site belonged to him, on 22.02.2016, at about 10.30 p.m., the petitioner poured kerosene on the hayricks and lightened the fire and damaged 40 bundles of hayricks. Thereafter, defacto complainant gave a complaint against the petitioner and the case was registered against the petitioner by the respondent police in Crime No.36 of 2016. After completion of investigation formalities, final report was filed before the concerned Court for the offences under Sections 435 of Indian Penal Code and Section 4 of TNPPDL Act and the final report was taken on file in S.C.No.773 of 2017.

3. Before the trial Court, on the side of the prosecution, 8 witnesses have been



CRL MP(MD) No.16000 and 16001 of 2023

examined as P.W.1 to P.W.8 and 8 documents were marked as Ex.P1 to Ex.P8. Two materials objects were marked as M.O.1 and M.O.2. On the side of the accused no witnesses was examined and no documents was marked.

4. The learned Additional District and Sessions Judge (FTC), Tenkasi, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 23.08.2023 by acquitting the petitioner under Section 4 of TNPPDL Act and convicting the petitioner as follows :

S.No.	Offence	Sentence	Fine	In default sentence
1.	435 of Indian Penal Code	Three months simple imprisonment	Rs.1,000/-	One Month simple imprisonment

Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petitions seeking suspension of sentence.

5. The learned counsel for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material



CRL MP(MD) No.16000 and 16001 of 2023

WEB COPY

particulars between the evidence of the prosecution witnesses. He further submitted that the trial Court suspended the sentence till 22.09.2023.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly 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 appeal and further the criminal appeal 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.

9. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal 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



CRL MP(MD) No.16000 and 16001 of 2023

WEB COPY

like sum to the satisfaction of the learned Additional District and Sessions Judge(FTC), Tenkasi.

(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.

10. The petitioner is not exempted from surrendering before the trial Court and the petitioner is directed to surrender before the learned Additional District and Sessions Judge(FTC), Tenkasi, within a period of two weeks from the date of receipt of copy of this order. Hence, Crl.M.P.(MD)No.16001 of 2023 is dismissed.

sd/-
16/11/2023

/ TRUE COPY /

/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA
TO

1 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE (FTC), TENKASI.



CRL MP(MD) No.16000 and 16001 of 2023

2 THE INSPECTOR OF POLICE
SURANDAI CIRCLE,
SURANDAI POLICE STATION,
TENKASI DISTRICT.

3 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 RECORDS)

+1 CC to M/s.V.SASIKUMAR, Advocate (SR-16372[I] dated 16/11/2023)

ORDER IN
CRL MP(MD) No.16000 and 16001 of 2023
IN
CRL A(MD) No.1003 of 2023
Date :16/11/2023

SA/DD/SAR. /21.11.2023/6P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.