



CRL MP(MD) No.16005 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Wednesday, the Fifteenth day of November Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL MP(MD) No.16005 of 2023

in

CRL RC(MD) No.1262 of 2023

CHARLIE @ RETHINADHAS

... PETITIONER/PETITIONER

Vs

State Rep.by
THE INSPECTOR OF POLICE
THUCKALAY POLICE STATION,
KANNIYAKUMARI DISTRICT.
(CRIME NO.400/2008).

... 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 Assistant Sessions Judge, Padmanabhapuram, Kanniyakumari District, in connection with the Judgment passed in SC No.25/2009 dt.17/4/2013 confirmed by the Additional District and Sessions Judge, Padmanabhapuram, Kanniyakumari District in Crl.A.No.36 of 2013 dated 06.10.2023, pending disposal of the main Criminal Revision Petition.

Prayer in CRL RC(MD). 1262/ 2023 :

To call for the records pertaining to the order passed in Crl.A.No.36/2013 on the file of the Honble Additional District and Sessions Judge, Padmanabhapuram, Kanniyakumari District, dt.6/10/2023 confirming the Judgment passed in SC No.25/2009 dated 17.04.2013 on the file of the Assistant Session Judge, Padmanabhapuram, Kanniyakumari District and set aside the same as illegal.



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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 MR.G.ARAVINTHAN, Advocate for the petitioner and of MR.K.SANJAY GANDHI, 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 Additional District and Sessions Judge, Padmanabhapuram, Kanniyakumari District in C.A.No.36 of 2013, dated 06.10.2023, confirming the conviction and sentence passed by the learned Assistant Sessions Judge, Padmanabhapuram, Kanniyakumari District in S.C.No.25 of 2009, dated 17.04.2013, 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 376 r/w 511 IPC and sentenced him to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for a period of one year in S.C.No.25 of 2009 on the file of the learned Assistant Sessions Judge, Padmanabhapuram dated 17.04.2013. Aggrieved over the conviction and sentence, the petitioner has preferred the appeal in Criminal Appeal No.36 of 2013 before the learned Additional District and Sessions Judge, Padmanabhapuram. However, the first appellate Court has also confirmed the conviction and sentence and dismissed the said appeal vide Judgement dated 06.10.2023.



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3. 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.

4. 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.

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

6. 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.

7. 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



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to the satisfaction of the learned Assistant Sessions Judge, Padmanabhapuram,

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Kanniyakumari District;

(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/-

15/11/2023

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/11/2023

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

skn

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PADMANABHAPURAM,
KANNIYAKUMARI DISTRICT.

2 THE ASSISTANT SESSIONS JUDGE,
PADMANABHAPURAM,
KANNIYAKUMARI DISTRICT.

3 THE INSPECTOR OF POLICE,
THUCKALAY POLICE STATION,
KANNIYAKUMARI DISTRICT.

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

+1 CC to M/s.G.ARAVINTHAN, Advocate (SR-16361[I] dated 16/11/2023)



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ORDER

IN

CRL MP(MD) No.16005 of 2023

in

CRL RC(MD) No.1262 of 2023

Date :15/11/2023

RS/JGB/SAR-(24.11.2023) 5P 6C

Madurai Bench of Madras High Court is issuing
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