



CRL MP(MD) No.16400 of 2023

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

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

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.16400 of 2023

in

CRL RC(MD)No. 1281 of 2023

P.ESAKKU

... PETITIONER/REVISION PETITIONER

Vs

THE STATE REP BY,
THE SUB INSPECTOR OF POLICE
MALLI POLICE STATION,
MALLI.

... 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 sentenced of conviction dated 10.10.2023 passed in C.A.No.87 of 2022 on the file of the Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur by conforming the order passed by the Judicial Magistrate Court No.2, Srivilliputhur in C.C.No. 61 of 2016 dated 14.07.2022 pending disposal of the above Criminal Revision Petition.

Prayer in CRL RC(MD). 1281/ 2023 :

To call for records and set aside the order of conviction and fine dated 10.10.2023 passed in C.A.No.87 of 2022 on the file of the Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur by conforming the order passed by the Judicial Magistrate No.2, Srivilliputhur in C.C.No. 61 of 2016 dated 14.07.2022.

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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.R.SARAVANAN, Advocate for the petitioner and of MR.K.SANJAY GANDHI, Government Advocate (Crl.Side) on behalf of the Respondent, while admitting the the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the Judicial Magistrate Court No.2, Srivilliputtur, in C.C.No.61 of 2016, dated 14.07.2022, which was confirmed in Criminal Appeal No.87 of 2022, dated 10.10.2023 by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur, 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 of Indian Penal Code and sentenced him to undergo simple imprisonment for a period of three months and to pay a fine of Rs.1,000/- (Rupees one Thousand only) in default to undergo simple imprisonment for a period of one month and for the offence under Section 304(A) of Indian Penal Code, he was sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo simple imprisonment for a period of two months in C.C.No.61 of 2016, on the file of the learned Judicial Magistrate Court



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No.2, Srivilliputtur.

3. The learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur, confirmed the conviction and sentence and dismissed the Criminal Appeal No.87 of 2022, dated 10.10.2023. Challenging the same, the Criminal Revision Case has been filed before this Court along with this miscellaneous petitions.

4. It is submitted by the learned counsel 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 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 Judicial Magistrate Court No.2, Srivilliputtur.

(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/-
22/11/2023

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



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TO

- 1 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, VIRUDHUNAGAR DISTRICT @
SRIVILLIPUTHUR.
- 2 THE JUDICIAL MAGISTRATE NO.II
SRIVILLIPUTHUR.
- 3 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.
- 4 THE SUB INSPECTOR OF POLICE
MALLI POLICE STATION,
MALLI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE SECTION OFFICER, (CALL FOR RECORDS)
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP(MD) No.16400 of 2023
in
CRL RC(MD)No. 1281 of 2023
Date :22/11/2023

PKP/JGB/SAR- /29.11.2023/ 5P/ 7C

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