



CRL.M.P.(MD)No.17566 of 2023

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

Tuesday, the Nineteenth day of December Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL.M.P.(MD)No.17566 of 2023
in
CRL.R.C.(MD)No.1210 of 2023

K.SURESH

... PETITIONER/PETITIONER

Vs

THE INSPECTOR OF POLICE
CSCID, CID,
DINDIGUL,
CRIME NO.01/2023.

...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 passed in CC.No.95/2006 on the file of the learned Judicial Magistrate No.III, Madurai, dated 17.03.2020, confirmed by the learned VI Additional Sessions Judge, Madurai in Criminal Appeal No.52/2020 dated 04.09.2020 pending disposal of the Revision Case.

PRAYER IN CRL.R.C.(MD)No.1210 of 2023:

To call for the entire records pertaining to Criminal Appeal No.52/2020 VI Additional Sessions Judge, Madurai and to set aside the judgment passed therein on 04.09.2023 which confirmed the judgment of the Learned Trial Court passed in C.C.No.95/2006 dated 17.03.2020 on the file of the Learned Judicial Magistrate No.III, (CCIW), Madurai and thereby acquit the revision petitioner from all charges.



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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.C.M. ARUMUGAM, Advocate for the petitioner and of MR.K.SANJAY GANDHI, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate No.III, Madurai, dated 17.03.2020 in C.C.No.95 of 2006, which was confirmed by the learned VI Additional Sessions Judge, Madurai in C.A.No.52 of 2020 dated 04.09.2020 pending disposal of the Criminal Revision Case.

2. The case of the prosecution is that the Accused Nos.1 and 2 are the President and Secretary of Anaipatti Primary Agricultural Co-operative Credit Society and Accused No.3 was working as Clerk and the Accused No.4/petitioner herein was working as Clerk cum Treasurer in the Society. The petitioner/Accused No.4 along with other accused mis-appropriated the cash, fabricated the documents and made falsification of accounts and also took jewels pledged by the members of the society and swindled the public money of Rs.3,54,267/-. Based on the complaint given by the Deputy Registrar of Co-operative Society, F.I.R. was registered in Crime No.01 of 2003. After completion of investigation, final report was filed before the learned Judicial Magistrate No.III (CCIW), Madurai for the offence under Sections 408, 465,



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468 and 477(A) of IPC and the same was taken on file in C.C.No.95 of 2006.

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3. The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court for the alleged offence under Section 468 of 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 15 days and for the offence under Section 477 (A) of IPC sentenced him to undergo simple imprisonment for a period of three months and the petitioner/Accused No.4 found not guilty under Sections 408 and 465 of IPC and acquitted him by passing impugned judgment dated 17.03.2020.

4. The learned VI Additional Sessions Judge, Madurai, confirmed the conviction and sentence and dismissed the Criminal Appeal No.52 of 2020 dated 04.09.2023.

5. 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.

6. 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



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prays for dismissal of this petition.

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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 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.

9. 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 to the satisfaction of the learned Judicial

Magistrate No.III, Madurai;

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(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 at 10.30 a.m. on the first working day of every English Calendar month until further orders.

sd/-
19/12/2023

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/01/2024
Sub-Assistant Registrar (C.S. -I/ II/ III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

vsd

TO

1.THE JUDICIAL MAGISTRATE NO.III, MADURAI,

2.THE VI ADDITIONAL SESSIONS JUDGE, MADURAI

3.THE INSPECTOR OF POLICE
CSCID, CID,
DINDIGUL,

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

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+1. C.C. to C.M. ARUMUGAM Advocate SR.No.18117

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ORDER
IN
CRL.M.P.(MD)No.17566 of 2023
in
CRL.R.C.(MD)No.1210 of 2023
Date :19/12/2023

RK/JGB (08/01/2024) 6P / 6C

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