



CRL MP(MD) No.17233 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Tuesday, the Twelfth day of December Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.17233 of 2023
in
CRL RC(MD)No.1106 of 2023

ANANDRAJ

... PETITIONER/RESPONDENT

Vs

1 PAPA

2 SUDHAGAR

... RESPONDENTS/PETITIONERS

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 order of the Learned District Munsif cum Judicial Magistrate Court, Senkottai, Tenkasi District in Crl.MP.No.1712/2019 in MC No.10/2018 dt.25/8/2022 on the file of the Learned District Munsif cum Judicial Magistrate Court, Senkottai, Tenkasi District pending disposal of the above Crl R.C(MD)No.1106 of 2023.

PRAYER in CRL RC(MD)No.1106 of 2023:

To call for the records pertaining to the impugned order of the District Munsif Cum Judicial Magistrate Court, Senkottai, Tenkasi District in CRL MP.No.1712 of 2019 in M.C.No.10 of 2018 dated 25.08.2022 on the file of the District Munsif Cum Judicial Magistrate Court, Senkottai, Tenkasi District and set aside the same.

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 M/S.A.B.JEEVA, Advocate for the petitioner and of Mr.T.INDRACHITHU, Advocate on behalf of the Respondents, the Court made the following order:-



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This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned District Munsif Cum Judicial Magistrate Court, Senkottai, Tenkasi District, in Crl.M.P.No.1712 of 2019 in M.C.No.10 of 2018 dated 25.08.2022, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the petitioner and the first respondent are husband and wife, due to difference of opinion they were separated and the first respondent has filed M.C.No.10 of 2018 on the file of the District Munsif Cum Judicial Magistrate Court, Senkottai, Tenkasi District and the same was allowed. The petitioner has not paid the maintenance amount, therefore, the respondent has filed Crl.M.P.No.1712 of 2019 in M.C.No.10 of 2018 for the realization of the arrears of maintenance amount. After hearing both side counsels, the learned judge granted sufficient time for payment of arrears of maintenance amount, the petitioner has not paid the amount. Therefore, he was sentenced to undergo simple imprisonment for a period of 24 months or until payment of the arrears of maintenance upto the date of release, whichever is earlier. Challenging the above said sentence, the petitioner has preferred the present Criminal Revision Case along with the above Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel appearing for the petitioner/Accused would submit that the petitioner is in custody from 25.08.2022 and this petition has been filed



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mainly on the ground that the petitioner has been admitted in the prison hospital in a serious health condition. He further submitted that the petitioner was receiving a sum of Rs.10,000/- (Rupees Ten Thousand only) as pension and the learned District Munsif Cum Judicial Magistrate Court, Senkottai, Tenkasi District has awarded a sum of Rs.12,000/- as monthly maintenance to the respondent. He further submitted 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. The learned counsel appearing for the respondents would submit that without getting divorce from the first respondent, the petitioner married another lady and also submitted that he has no objection to grant suspension of sentence.

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 for the petitioner pointed out 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 Case and further the Criminal Revision Case is not likely to be taken up for final hearing in the near future, considering the fact that the respondents have no objection to allow this petition and the period of incarceration, this Court is of the



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considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7. 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.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned District Munsif Cum Judicial Magistrate Court, Senkottai, Tenkasi District .

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

sd/-
12/12/2023

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12/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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- 1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE,
SENKOTTAI, TENKASI DISTRICT.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

ORDER
IN
CRL MP(MD) No.17233 of 2023
in
CRL RC(MD)No.1106 of 2023
Date :12/12/2023

SS/SAR- /12/12/2023/5P/4C

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