



CRL MP(MD) No.17675 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Monday, the Eighteenth day of December Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.17675 of 2023

in

CRL RC(MD) No.1397 of 2023

RAKKAPPAN

... PETITIONER/ APPELLANT/ ACCUSED NO.2

Vs

THE INSPECTOR OF POLICE

THIRUPARANKUNDRAM POLICE STATION,

CRIME NO.420/2005.

... RESPONDENT/RESPONDENT/COMPLAINANT

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 by the Learned Addl District Sessions Judge No.V Madurai in C.A No.43/2021 dt.27.09.2023, by confirming the judgment of conviction and modify the sentence passed by the Learned Judicial Magistrate No.VI, Madurai in CC.No.328 of 2008 dated 15.02.2021 and enlarge the petitioner on bail pending disposal of the above appeal.

Prayer in CRL RC(MD). 1397/ 2023 :

To call for the records pertaining to the impugned Judgment of conviction and sentence passed by the learned Additional District Sessions Judge No.V, Madurai in C.A No.43/2021 dt.27.09.2023, by confirming the judgment of conviction and modify the sentence passed by the Learned Judicial Magistrate No.VI, Madurai in C.C.No.328 of 2008 dated 15.02.2021 and set aside the same.



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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 M/S.KARUPPASAMY PANDIYAN.G, Advocate for the petitioner and of MR.S.MANIKANDAN, Government Advocate (Crl.Side) on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the learned Judicial Magistrate No.VI, Madurai, in C.C.No.328 of 2008, dated 15.02.2021, which was confirmed in Criminal Appeal No.43 of 2021, dated 27.09.2023 by the learned Additional District and Sessions Judge No.V, Madurai, 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 learned Judicial Magistrate No.VI, Madurai, in C.C.No.328 of 2008 dated 15.02.2021 as follows:-

S.No.	Offence	Sentence	Fine	In default sentence
1.	418 of IPC	3 years rigorous imprisonment	Rs.2,000/-	three month simple imprisonment
2.	420 of IPC	3 year rigorous imprisonment	Rs.2,000/-	three month simple imprisonment



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3.	423 of IPC	3 years rigorous imprisonment	Rs.2,000/-	three month simple imprisonment
4.	468 of IPC	3 years rigorous imprisonment	Rs.2,000/-	three month simple imprisonment
5.	120(b) of IPC	6 months simple imprisonment	Rs.2,000/-	three month simple imprisonment

3. The learned Additional District and Sessions Judge No.V, Madurai, confirmed the conviction and sentence and dismissed the Criminal Appeal No.43 of 2021, dated 27.09.2023. Challenging the same, the Criminal Revision Case has been filed before this Court along with these 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.



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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.

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 learned (*)Judicial Magistrate No.VI, Madurai.

(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



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month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders.

sd/-
18/12/2023

(*)Amended as per Order of the Court dt.30.01.2024 in Crl.MP(MD).844/2024 in Crl.OP(MD).1397/2023 by VSI.

Further two weeks time is granted to the petitioner to execute a bond for a sum of Rs.25,000/- with two sureties, each for a like sum to the satisfaction of the Court concerned.

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/02/2024

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

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TO

TO BE SUBSTITUTED WITH THE ORDER DT.18/12/2023 ALREADY DESPATCHED

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE NO.V,
MADURAI.

2 THE JUDICIAL MAGISTRATE NO.VI,
MADURAI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.

4 THE JUDICIAL MAGISTRATE,
THIRUVAIYARU.



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5 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.

6 THE INSPECTOR OF POLICE, THIRUPARANKUNDRAM POLICE STATION,
THIRUPARANKUNDRAM, MADURAI DISTRICT.

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

ORDER IN
CRL MP(MD) No.17675 of 2023
in
CRL RC(MD) No.1397 of 2023
Date :18/12/2023

RS/JGB/SAR-(05.01.2024) 6P 8C
PKN

SA/VR/SAR. /19.02.2024 6P 8C

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