



CRL MP(MD) No.17623 of 2023

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

Friday, the Fifteenth day of December Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.17623 of 2023

in

CRL A(MD)No. 1101 of 2023

MOHAMED RIYASKHAN

... PETITIONER/APPELLANT/ SOLE ACCUSED

Vs

**THE INSPECTOR OF POLICE
KENIKKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT,
CRIME NO.07/2019**

... 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 and enlarge the petitioners on bail imposed on the petitioners by the judgment dated 21.11.2023 made in SC NO.12/2021 on the file of Principal Sessions Court, Ramanathapuram of the above Criminal Appeal

PRAYER IN CRL A(MD)No. 1101 of 2023:

To call for the records relating to the Judgment dated 21.11.2023 made in S.C.No. 12 of 2021 on the file of the Principal Session Court, Ramanathapuram under sections 323, 353 of IPC and Section 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act and set aside the conviction and sentence imposed against the appellant and allow above appeal by acquitting the appellant.



CRL MP(MD) No.17623 of 2023

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.M.U.MOHAMED ASLAM, Advocate for M/S.AJMAL ASSOCIATES for the petitioner and of MR.K.SANJAY GANDHI, Government Advocate (Criminal Side) on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Principal Sessions Court, Ramanathapuram in S.C.No.12 of 2021 dated 21.11.2023 and enlarge the petitioner on bail till the disposal of this Criminal Appeal.

2. The case of the prosecution is that on 10.01.2019 at about 01.45 p.m., the petitioner along with the other persons were travelling in a car and van and some of the persons from the car and van cheered and shouted and the same was objected by P.W.1. P.W.1/Sub Inspector of Police stopped one car and rebuked the act of the accused, at that time, the accused scolded the P.W.1 and also dashed P.W.1 by car, due to the incident, P.W.1 suffered minor injuries. Thereafter, the case was registered against the petitioner by the respondent police in Crime No.7 of 2019. After completion of investigation formalities, final report was filed before the concerned Court for the offences under Sections 294 (b), 307, 332 & 353 of IPC and Section 3(1) of TNPPDL Act, 1992 and the final report was taken on file in S.C.No.12 of 2021.



CRL MP(MD) No.17623 of 2023

3. Before the trial Court, on the side of the prosecution, 11 witnesses have been examined as P.W.1 to P.W.11 and 10 documents were marked as Ex.P1 to Ex.P10. One material objects was marked as M.O.1. On the side of the accused no witnesses was examined and no documents was marked.

4. The learned Principal Sessions Court, Ramanathapuram, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 21.11.2023 by convicting the petitioner as follows :

S.No.	Offence	Sentence	Fine	In default sentence
1.	323 of IPC	One year rigorous imprisonment	Rs.1,000/-	Four months simple imprisonment
2.	353 of IPC	Two years rigorous imprisonment	Rs.1,000/-	Three month simple imprisonment
	3 of Tamil Nadu Property (Prevention of Damage and Loss) Act	Three years rigorous imprisonment	Rs.1,000/-	Nine month simple imprisonment



CRL MP(MD) No.17623 of 2023

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Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5. The learned counsel for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He further submitted that the trial Court suspended the sentence till 20.12.2023.

6. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

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 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 appeal and
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CRL MP(MD) No.17623 of 2023

further the criminal appeal 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, 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.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Principal Session Court, Ramanathapuram.

(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



CRL MP(MD) No.17623 of 2023

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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/-
15/12/2023
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/01/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023. ,

TTA

TO

- 1 THE PRINCIPAL SESSIONS JUDGE
RAMANATHAPURAM.
- 2 THE INSPECTOR OF POLICE
KENIKKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT,
- 3 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.



CRL MP(MD) No.17623 of 2023

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+1 CC to M/s.M/S.AJMAL ASSOCIATES, Advocate (SR-17934[I] dated 18/12/2023)

ORDER
IN
CRL MP(MD) No.17623 of 2023
in
CRL A(MD)No. 1101 of 2023
Date :15/12/2023

PKP/DD/SAR- /08.01.2024/ 7P/ 6C

Madurai Bench of Madras High Court is issuing certified
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