



Crl.M.P.No.2171 of 2024
in Crl.R.C.No.241 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

Crl.M.P.No.2171 of 2024
in Crl.R.C.No.241 of 2024

Bascal Leo

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
E-1, Singanallur Police Station,
Coimbatore.

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389(1) of Code of Criminal Procedure, to suspend the sentence passed by the Judicial Magistrate Court-III, Coimbatore, dated 11.01.2023, made in C.C.No.429/2018, confirmed in Crl.A.No.66/2023, dated 03.01.2024 passed by the I Additional District Court, Coimbatore and enlarge the petitioner on bail pending disposal of the above Crl.R.C.

For Petitioner : Mr.B.Jawahar
For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)



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ORDER

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This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner in Crl.A.No.66/2023 on the file of the learned I Additional District Court, Coimbatore, dated 03.01.2024 confirming the judgment and sentence passed in C.C.No.429/2018 on the file of the Judicial Magistrate Court-III, Coimbatore on 11.01.2023, pending disposal of the above criminal revision.

2. The petitioner has been convicted by the Trial Court in C.C.No.429 of 2018 by a judgment dated 11.01.2023 i) for the offence under Section 75(1)(C) Tamil Nadu Police City Act imposed a fine of Rs.1,000/-, ii) for the offence under Section 325 IPC imposed one week simple imprisonment and to pay a fine of Rs.5,000/- and iii) for the offence under Section 506(i) IPC imposed one week simple imprisonment and to run the sentences concurrently. Aggrieved by the same, the petitioner preferred appeal in C.A.No.66 of 2023, the lower Appellate Court by a judgment dated 03.01.2024 dismissed the same.



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3. The case of the prosecution is that on 31.10.2017, due to previous enmity the petitioner abused the de-facto complainant PW1 and twisted his little finger on the left hand and pushed him down and caused grievous injury. Therefore, a case has been registered by the respondent Police in Crime No.429 of 2018 on 12.11.2018.

4. During trial, PW1 to PW8 were examined and EXs.P1 to P6 were marked. The Trial Court on conclusion of trial convicted the petitioner as stated above. The appeal preferred by the petitioner was dismissed by the Lower Appellate Court, confirming the conviction and sentence of the Trial Court.

5. It is stated that the petitioner is a Veterinary Doctor and he had appeared examination for the post of Veterinary Assistant Surgeon conducted by the TNPSC on 15.03.2023 and he also attended certificate verification and now he is waiting for appointment order.

6. It is the further contention of the petitioner that he was a tenant under the defacto complainant's son. Due to some dispute in tenancy a civil



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suit has been filed by the petitioner against the de-facto complainant's son in OS.No.1429 of 2014 before the District Munsif Court, Coimbatore and hence, the de-facto complainant lodged a false complaint against the petitioner as though he assaulted him on 31.10.2017. The said complaint was lodged only on 02.11.2017 with a delay but no reason has been given for such delay. Though the case has been projected as if the de-facto complainant was examined in hospital and his statements were recorded, no such statement or AR copy had been produced. Further, in the wound certificate it was reported that there is a fracture in the de-facto complainant's ribs 5 and 6, but no X-ray or any medical records have been produced to confirm the same.

7. It is further stated that PW7 Doctor is a known person to the de-facto complainant's family, who is running a private clinic. In this case, opinion of the Government Doctors have not been obtained. Further PW4 and PW6 have not supported the prosecution case and other witnesses are either closely related or known persons to the de-facto complainant. It is further submitted that the petitioner has arguable points and he has fair



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chance of success in this revision. Hence, he prayed for granting suspension of sentence to the petitioner.

8. The learned Government Advocate (Crl. Side) submitted that the petitioner was a tenant under the de-facto complainant's son. Since the petitioner had not paid the rent, the de-facto complainant's son locked the house and due to which, the petitioner got offended and assaulted the de-facto complainant and caused grievous injuries to him. The attack was witnessed by witnesses 2 and 3 and the medical evidence confirmed the case of the prosecution. Therefore, the Trial Court, based on the evidence of witnesses and the materials placed on record, convicted the petitioner.

9. It is seen that there was a tenancy dispute between the de-facto complainant and the petitioner. Due to the heat of arguments and exchange of words, the above incident had occurred, which culminated into the above case. The de-facto complainant produced the wound certificate issued by the private practitioner, but no X-ray or any other medical records have been produced to show that he suffered fracture.



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10. Considering the fact that no independent witness was examined in this case and the medical records also not confirm that the defacto complainant suffered grievous injuries, this Court finds that the judgment of the Lower Court needs to be re-considered. Further, the petitioner has already surrendered before the trial Court and now confined in prison. Further, taking note of the fact that there are arguable points involved in this revision and it would take some time for the revision to be taken up for final hearing, this Court is inclined to suspend the sentence imposed on the petitioner.

11. Accordingly, the relief of suspension of sentence and bail are granted on the following conditions till the disposal of the above Criminal revision:

(a) The petitioner/accused is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.5,000/- (Rupees five thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.III, Coimbatore.



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(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioner shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, until the disposal of the revision and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

12. Accordingly, this Criminal Miscellaneous Petition is ordered.

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pvs

Note: Issue order copy on 09.02.2024



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To

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- 1.The I Additional District Court, Coimbatore
2. The Judicial Magistrate Court-III, Coimbatore
- 3.The Inspector of Police,
E-1, Singanallur Police Station,
Coimbatore.
- 4.The Superintendent,
Central Prison, Coimbatore.
- 5.The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR., J.

pvs

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(2/2)