



*Crl.M.P.No.2880 of 2024
in Crl.RC.No.306 of 2024*

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2024

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.M.P.No.2880 of 2024
in
Crl.RC.No.306 of 2024

M.Devi

... Petitioner

Vs.

E.M.Sarathi

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 397(1) of Cr.P.C to suspend the sentence of imprisonment imposed in the judgment dated 24.01.2024 made in C.A.No.128 of 2018 on the file of the IV Additional District and Sessions Court, Tiruvallur at Ponneri confirming the judgment dated 20.03.2018 made in S.T.C.No.299 of 2016 on the file of the learned Judicial Magistrate, Thiruvotriyur and enlarge the petitioner on bail pending disposal of the above revision petition.

For Petitioner : Mr.V.Parthiban



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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner to suspend the sentence of imprisonment imposed in the judgment dated 24.01.2024 made in C.A.No.128 of 2018 on the file of the IV Additional District and Sessions Court, Tiruvallur at Ponneri confirming the judgment dated 20.03.2018 made in S.T.C.No.299 of 2016 on the file of the learned Judicial Magistrate, Thiruvotriyur and enlarge the petitioner on bail pending disposal of the above revision petition.

2.The petitioner was convicted by the Trial Court by judgment dated 20.03.2018 in S.T.C.No.299 of 2016 and sentenced to undergo six months imprisonment and to pay compensation of Rs.16,10,300/- and RS.16,30,400/-, totalling Rs.32,40,700/-, in default, to undergo one month simple imprisonment. Against which, the petitioner preferred an appeal before the Sessions Court in C.A.No.128 of 2018 and the learned IV Additional District and Sessions Judge, Tiruvallur at Ponneri dismissed the appeal by judgment dated 24.01.2024 confirming the conviction and



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sentence passed by the Trial Court. Against which, the present revision is filed.

3.The learned counsel for the petitioner submitted that the Sessions Court dismissed the appeal without hearing the petitioner and thereafter the petitioner filed a revision before this Court in Crl.RC.No.902 of 2019. this Court by order dated 04.08.2023 set aside the conviction and directed the Sessions Court to hear the petitioner and thereafter pass a judgment. During the interregnum period, the petitioner was in confinement for one month since she was convicted for a period of six months. The petitioner, at that time, deposited Rs.5,00,000/- to the credit of S.T.C.No.299 of 2016 on the file of the learned Judicial Magistrate, Thiruvotriyur. The specific case of the petitioner is that the petitioner borrowed a loan of Rs.5,00,000/- and using the signed unfilled cheque, the respondent who was a customer of petitioner's two wheeler showroom is said to have given a huge amount of Rs.30,00,000/- as loan. The petitioner questions the financial capability of the respondent which the Courts below had not considered. He further submitted that already Rs.5,00,000/- is lying in the credit of S.T.C.No.299



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of 2016, the petitioner has got three grown up daughters and recently, she lost her husband.

4.Considering the submissions made and on perusal of the materials, it is seen that the petitioner is a widow having three daughters and she had already deposited Rs.5,00,000/- before the Trial Court. Hence, this Court is inclined to suspend the sentence of Imprisonment till the disposal of the revision petition.

5.Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the revision petition and the petitioner is ordered to be enlarged on bail, on condition that she 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 Judicial Magistrate, Thiruvotriyur.

6.Further, the petitioner shall appear before the Trial Court on the first working day once in three months at 10.30 a.m. until the disposal of the



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revision petition and if she is not able to appear before the Trial Court on that day, she 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 her absence as directed by the Trial Court.

7. Accordingly, this Miscellaneous Petition is ordered.

22.02.2024

cse

To

1. The Judicial Magistrate,
Thiruvotriyur.
2. The IV Additional District and Sessions Judge,
Tiruvallur at Ponneri.



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M. NIRMAL KUMAR, J.

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