



CrI.M.P.No.7775 of 2024
in CrI.R.C.No.910 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.05.2024

CORAM

THE HON'BLE MR. JUSTICE R.SAKTHIVEL

CrI.M.P.No.7775 of 2024
in
CrI.R.C.No.910 of 2024

Kalidass @ Kaleeshwaran
S/o.Nagudevar

...Petitioner

Vs.

State represented by
The Inspector of Police,
Kumarapalayam Police Station,
Namakkal District.
Crime No.184 of 2016

...Respondent

Criminal Miscellaneous Petition filed under Section 397 of the Code of Criminal Procedure, 1973 r/w 389 of the Code of Criminal Procedure, 1973, praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence of four years rigorous imprisonment made under the judgment dated 28.03.2024 in CrI.A.No.32 of 2022, on the file of II Additional Sessions Judge, Tiruchengode, confirming the conviction and sentence in the judgment dated 11.03.2022 made in S.C.No.16 of 2018 on the file of the Assistant Sessions Judge, Tiruchengode, pending disposal of the above Criminal Revision Petition.



Crl.M.P.No.7775 of 2024
in Crl.R.C.No.910 of 2024

Prayer in CRL RC.No.910 of 2024 :

To call for the entire records in so far relates to judgment passed in C.A.No.32 of 2022 dated 28.03.2024 on the file of II Additional Sessions Judge, Tiruchengode, confirming the conviction and sentence dated 11.03.2022 made in S.C.No.16 of 2018 on the file of the Assistant Sessions Judge, Tiruchengode and set aside the same.

For Petitioner : Ms.R.Hemalatha

For Respondent : Ms.S.Udayakumar
Government Advocate [Crl.side]

ORDER

The petitioner filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed by the learned Assistant Sessions Judge, Tiruchengode, in S.C.No.16 of 2018 dated 11.03.2022, which was confirmed by the learned II Additional Sessions Judge, Tiruchengode, in Crl.A.No.32 of 2022 dated 28.03.2024 and to enlarge the petitioner on bail, pending disposal of the Criminal Revision Case.

2. Heard the learned counsel for the petitioner and perused the averments made in the affidavit of the petitioner.



Crl.M.P.No.7775 of 2024
in Crl.R.C.No.910 of 2024

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3. The case of the prosecution is that due to previous enmity between the accused and complainant, the accused waylaid the complainant while he was proceeding to his house in his two-wheeler and uttered unparliamentary words. Further, the accused attempted to murder the complainant and while the same was resisted by the complainant, he sustained injuries, resulting in the registration of the case in Crime No.184 of 2016 for offences under Sections 341, 294(b) and 307 IPC. Upon filing of final report, the case was taken on file and tried in S.C.No.16 of 2018 on the file of learned Assistant Sessions Judge, Tiruchengode. The trial Court, *vide* judgment dated 11.03.2022, while acquitting the appellant for offence under Section 294(b) IPC, convicted and sentenced him to undergo four years rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo 3 months simple imprisonment for the offence u/s.307 IPC and to pay a fine of Rs.500/- in default to undergo one week simple imprisonment for offence under Section 341 IPC.

4. Feeling aggrieved by the said judgment, the petitioner preferred Crl.A.No.32 of 2022 on the file of the II Additional Sessions Judge,



Crl.M.P.No.7775 of 2024
in Crl.R.C.No.910 of 2024

Tiruchengode. After hearing both sides, the learned Sessions Judge dismissed the appeal *vide* judgement dated 28.03.2024 and confirmed the judgment passed in S.C.No.16 of 2018 dated 11.03.2022.

5. Feeling aggrieved with the concurrent findings of the trial Court and the First Appellate Court, the petitioner filed this Criminal Revision Petition under Section 397 and 401 Cr.P.C., seeking suspension of the sentence.

6. Learned counsel for the petitioner submitted that the petitioner did not come to any adverse notice.

7. *Per contra*, learned Government Advocate [Crl.side] submitted that the trial Court, after considering the materials on record, convicted the petitioner and sentenced him to undergo the sentence as stated supra, which was confirmed by the First Appellate Court. Hence, there is no fair chance of acquittal.



Crl.M.P.No.7775 of 2024
in Crl.R.C.No.910 of 2024

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8. This Court considered the rival submissions and perused the materials on record.

9. On a perusal of the records and considering the facts and circumstances of the case, this Court is of the view that the petitioner has a fair chance of acquittal in this appeal. Hence, this Court is inclined to suspend the sentence of imprisonment imposed on the petitioner.

10. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Assistant Sessions Judge, Tiruchengode, in S.C.No.16 of 2018 dated 11.03.2022 and confirmed by the learned II Additional Sessions Judge, Tiruchengode, in Crl.A.No.32 of 2022 dated 28.03.2024 alone is suspended subject to the following conditions:-

i) 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, Tiruchengode.



CrI.M.P.No.7775 of 2024
in CrI.R.C.No.910 of 2024

WEB COPY

ii) The petitioner shall appear and sign before the Judicial Magistrate, Tiruchengode, on the first working day of every English calender month at 10.30 a.m., until further orders.

iii) In case, for any reason if the petitioner is unable to appear before the Court on the first working day of a month, he shall appear on the next working day.

iv) The petitioner shall furnish his residential address and mobile number to the First Appellate Court i.e., II Additional Sessions Judge, Tiruchengode.

Subject to the above conditions, this Petition is allowed.

16.05.2024
(2/3)

gm/gpa

Note:

1.Registry is directed to forthwith upload this order in the official website of this Court.

2.All concerned to act on this order being uploaded in official website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.



CrI.M.P.No.7775 of 2024
in CrI.R.C.No.910 of 2024

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To

- 1.The Assistant Sessions Judge,
Tiruchengode.
- 2.The II Additional Sessions Judge,
Tiruchengode.
- 3.The Public Prosecutor,
High Court of Madras.



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CrI.M.P.No.7775 of 2024
in CrI.R.C.No.910 of 2024

R.SAKTHIVEL, J.

gm/gpa

CrI.M.P.No.7775 of 2024
in CrI.R.C.No.910 of 2024

16.05.2024