



CRL MP(MD) No.776 of 2024

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

Friday, the Eighth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.776 of 2024

in

CRL A(MD)No. 70 of 2024

ARUMUGASAMY

... PETITIONER/PETITIONER

Vs

**THE INSPECTOR OF POLICE
MARANERI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.44/2021)**

... RESPONDENT/RESPONDENT

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 imposed by the Learned Sessions Fast Track Mahila Court, Srivilliputhur in S.C.No,167 of 2021 by Judgment dt.06.04.2023 and enlarge the petitioner/appellant on bail, pending disposal of the above said Criminal Appeal.

PRAYER IN CRL A(MD)No. 70 of 2024:

Pleased to call for the records and set aside the order of conviction and sentence passed in S.C.No. 167 of 2021 dated 06.04.2023 on the file of the Learned Sessions Fast Track Mahila Court, Srivilliputhur and allow this appeal and acquit the Appellant/Accused from the Charge leveled against him.

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

<https://www.mhc.tn.gov.in/judis>



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MR.AK.AZAGAR SAMI, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate (Criminal Side) on behalf of the Respondent, the court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on him by the learned Sessions Judge, Fast Track Mahila Court, Srivilliputhur, in S.C.No.167 of 2021 dated 06.04.2023 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner in Crime No.44 of 2021, on the file of the respondent/Inspector of Police, Maraneri Police Station, Virudhunagar District, for the offences punishable under Section 376 of IPC and the same was taken on file in S.C.No.167 of 2021 before the learned Sessions Judge, Fast Track Mahila Court, Srivilliputhur. The petitioner was convicted and sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.3,000/- (Rupees Three Thousand only) with six months simple imprisonment in case of default for the offence under Section 376 of IPC. Challenging the above said conviction and sentence, the petitioner has preferred the Criminal Appeal along with the present Criminal Miscellaneous Petition seeking suspension of sentence.



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3. The learned counsel appearing for the petitioner would submit that the trial Court failed to note that except P.W.3-victim, no other eyewitnesses supported the case of prosecution. He further submitted that the trial Court failed to consider the fact that sound mind of P.W.3 was not established by the prosecution. Moreover, P.W.3 is very well amenable to tutoring and she also admitted that she was continuously harassed and beaten by her parents, even before lodging the complaint, which clearly reveals that she was forced to lodge a false case. There is no evidence to prove the charge levelled against the petitioner. He also submitted that the petitioner is in judicial custody from 06.04.2023. Hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Government Advocate (Crl. side) appearing on behalf of the respondent vehemently opposed this petition informing that the allegations levelled against the petitioner/accused are serious in nature. The victim is mentally disabled person and hence, prays to dismiss the petition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the State and perused the materials available on record.



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6. This Court finds force in the submission of the learned counsel for the petitioner and hence, this Court is of the prima facie view that there are arguable points involved in this Criminal Appeal. Moreover, the petitioner has been incarcerated from 06.04.2023 and further the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Sessions Judge, Fast Track Mahila Court, Srivilliputhur, in S.C.No.167 of 2021 dated 06.04.2023 alone is suspended, subject to the following stringent conditions :-

i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Srivilliputhur;

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;

iii) The petitioner shall appear and sign before the concerned Court daily



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at 10.30 a.m. and 5.30 p.m., till the disposal of the appeal.

iv) The petitioner shall furnish his residential address and mobile number to the Trial Court i.e., learned Sessions Judge, Fast Track Mahila Court, Srivilliputhur.

8. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed.

sd/-
08/03/2024

/ TRUE COPY /

14/03/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM

TO

- 1 THE SESSIONS JUDGE
FAST TRACK MAHILA COURT, SRIVILLIPUTHUR.
- 2 THE INSPECTOR OF POLICE
MARANERI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.



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

ORDER
IN
CRL MP(MD) No.776 of 2024
in
CRL A(MD)No. 70 of 2024
Date :08/03/2024

PKP/14.03.2024/ 6P/5C

Madurai Bench of Madras High Court is issuing certified
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