



CRL MP(MD) No.781 of 2024

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

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

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.781 of 2024
in
CRL RC(MD) No.63 of 2024

1 SUVESAMUTHU
2 RAMALAKSHMI

... PETITIONERS/ APPELLANTS
/ ACCUSED NO.1 & 2

Vs

THE INSPECTOR OF POLICE
VK PURAM POLICE STATION,
THENKASI DISTRICT.
CRIME NO.181 OF 2009

... RESPONDENT/RESPONDENT
/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the Petitioners on bail by suspending the sentence imposed by the judgement delivered by the Judicial Magistrate, Ambasamudhram in CC.No.192 of 2012 vide his judgment dt.13.3.2018 and which has been subsequently confirmed by the III Additional District and Sessions Judge, Thirunelveli in C.A.No.32 of 2018 vide his judgment dated 20.12.2023 pending the disposal of the main Criminal Revision Petition.

Prayer in CRL RC(MD). 63/ 2024 :

To call for the entire records pertaining to the judgment delivered by the Judicial Magistrate, Ambasamudhram in CC.No.192 of 2012 vide his judgment dt.13.3.2018 and which has been subsequently confirmed by the III-Additional District and Sessions Judge, Tirunelveli in C.A.No.32 of 2018 vide his judgment dated 20.12.2023 and set aside the same.



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Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.K.MAHENDRAN, Advocate for the petitioners and of MR.M.VAIKKAM KARUNANITHI, Government Advocate (Crl.Side) on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed against the petitioners by the learned Judicial Magistrate, Ambasamudhram in C.C.No.192 of 2012, dated 13.03.2018, which was confirmed in Criminal Appeal No.32 of 2018, dated 20.12.2023, by the learned III Additional District and Sessions Judge, Tirunelveli, pending disposal of the Criminal Revision Case in Crl.R.C.(MD) No.63 of 2024.

2. The case of the prosecution is that the accused were administering a temple, named Ayyavazhi Temple. The husband of P.W.1 was the devotee of the said temple. The accused had approached P.W.1 and her husband, and had informed them that there are some black magic around the family of P.W.1 and in order to get rid of the same, they have to perform some rituals. To that effect, on 18.11.2007, P.W.1 and her husband had given a sum of Rs.35,000/- to the accused. Thereafter, on 25.12.2007, the husband of P.W.1 had passed away, and the accused had approached P.W.1 and informed that her husband had died only due to some evil force. Believing the same, P.W.1 had agreed to perform rituals, for which, the accused had demanded 65 sovereigns of gold jewels and a cash of Rs.25,00,000/- and the same were given by



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P.W.1 to the accused on various dates. When P.W.1 had asked the accused to return back the jewels and money, the accused had threatened P.W.1 with dire consequences. Hence, a First Information Report came to be registered as against the accused for the offence under Sections 420 and 506(1) of IPC by the respondent police.

3. The respondent, after completing the investigation, has filed the final report and the same was taken on file in C.C.No.192 of 2012 on the file of the Judicial Magistrate, Ambasamudram.

4. The learned counsel appearing for the petitioners submitted that the petitioners/A1 & A2, who are the husband and wife, have been convicted by the trial Court on 13.03.2018, and the trial Court sentenced them to undergo imprisonment for a period of three years for the offence under Section 420 of IPC, and also to undergo imprisonment for a period of 6 months for the offence under Section 506(1) of IPC, and both the sentences were ordered to run concurrently.

5. Challenging the above said conviction and sentence, the petitioners have preferred an appeal in Criminal Appeal No.32 of 2018 on the file of the learned III Additional District and Sessions Judge, Tirunelveli. The learned III Additional District and Sessions Judge, Tirunelveli by confirming the said conviction and sentence, dismissed the appeal on 20.12.2023. Being dissatisfied with the said conviction and sentence, the petitioners have preferred the present Criminal Revision



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Case before this Court along with this Miscellaneous Petition.

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6. It is submitted by the learned counsel for the petitioners that the the 1st petitioner/A1, who was arrested on 12.08.2024, is still in custody, and the 2nd petitioner/A2, who surrendered before the trial Court on 29.10.2024, is also in custody till date. He has also submitted that there are several infirmities in the prosecution case, and also there are contradictions in material particulars between the evidence of the prosecution witnesses.

7. The learned Government Advocate (Criminal Side) appearing for the respondent submitted that there are enough materials available on record against these petitioners and hence, he opposed to grant suspension of sentence.

8. This Court has carefully considered the submissions made by the learned counsel for the petitioners and the learned Government Advocate (Criminal Side) appearing for the respondent, and has also perused the materials available on record.

9. The learned counsel for the petitioners pointed out that there are certain infirmities and inconsistencies present in this case, and also there are certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further, the criminal revision is not likely to be taken up for final hearing in the near future, and considering the age of the petitioners, and also considering the period of incarceration suffered by them, this



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Court is of the considered view that the petitioners herein are entitled to the relief of grant of suspension of sentence.

10. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision with the following directions :

(i) The petitioners 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, Ambasamudram.

(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 petitioners shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders.

sd/-
08/11/2024

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08/11/2024

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

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1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, TIRUNELVELI.

2 THE JUDICIAL MAGISTRATE, AMBASAMUDHIRAM.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.

4 THE INSPECTOR OF POLICE, VK PURAM POLICE STATION,
THENKASI DISTRICT.

5 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

6 THE SUPERINTENDENT, CENTRAL PRISON FOR WOMEN, MADURAI.

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

+1 CC to M/s.K.MAHENDRAN, Advocate (SR-13734[I] dated 08/11/2024)

ORDER
IN

CRL MP(MD) No.781 of 2024
in

CRL RC(MD) No.63 of 2024

Date :08/11/2024

RS//SAR-(08.11.2024) 6P 9C

Madurai Bench of Madras High Court is issuing
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