



CRL MP(MD) No.1964 of 2024

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

Thursday, the Twenty Sixth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

Crl.M.P(MD)No.1964 of 2024

in

Crl.R.C.(MD)No.1420 of 2023

ARULRAJA

... PETITIONER/ APPELLANT/ ACCUSED

Vs

THE INSPECTOR OF POLICE
RAJAPALAYAM SOUTH POLICE STATION,
VIRUDHUNAGAR DISTRICT
CRIME NO. 434 OF 2012

... RESPONDENT/RESPONDENT/COMPLAINANT

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 conviction and sentence imposed in C.A No. 40 of 2019 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur dt. 03.11.2023 in confirming the judgment made in C.C No. 80 of 2013 on the file of the learned Judicial Magistrate Court, Rajapalayam dated 31.01.2019 and thus render justice till the disposal of the above said Criminal Revision Case.

Prayer in CRL RC(MD). 1420/ 2023 :

To call for the records pertaining to the case in CA.No.40 of 2019 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur and CC.No.80 of 2013 on the file of the Learned Judicial Magistrate Court, Rajapalayam and set aside the conviction and sentence passed in C.A.No.40 of 2019 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur



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dated 03.11.2023 in confirming the judgment made in C.C.No.80 of 2013 on the file of the learned Judicial Magistrate Court, Rajapalayam dated 31.01.2019 and to allow this Criminal revision.

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 Mr.R.KARUNANIDHI, Advocate for the petitioner and of K.SANJAI GANDHI, Government Advocate(crl.side) on behalf of the Respondent, the court made the following order:-

The above petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate, Rajapalayam in C.C.No.80 of 2013, dated 31.01.2019, which was confirmed by the Principal District and Sessions Court, Virudhunagar District at Srivilliputtur in C.A.No.40 of 2019, dated 03.11.2023.

2.The case of the prosecution is that on 27.07.2012 at about 8.30 am., when the defacto complainant was going to the college, the accused snatched her gold chain by throwing chilli powder on her face and ran away from the occurrence place and hence, the defacto complainant lodged a complaint, based on which, a case in Cr.No.434 of 2012 came to be registered.

3.The respondent, after completing the investigation, has filed the final report for the offences under Section 392 IPC and the case was taken on file in C.C.No.80 of 2013 and the same was pending on the file of the Judicial Magistrate, Rajapalayam.

4.The learned counsel appearing for the petitioner would submit that the trial Court has convicted the petitioner for the offence under Section 392 IPC and



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sentenced him to undergo two years simple imprisonment and to pay a fine of Rs.2,000/- each, in default, to undergo one month imprisonment.

5.Challenging the above said conviction and sentence, the petitioner has filed an appeal in C.A.No.40 of 2019 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputtur. The learned Sessions Judge, by confirming the sentence imposed on the petitioner, has dismissed the appeal. Being dissatisfied with the said conviction and sentence, the petitioner has preferred the present criminal revision along with the above application for suspension of sentence.

6.It is not in dispute that the petitioner has earlier filed a petition to suspend the sentence in Crl.M.P.No.17946 of 2023, which was came to be dismissed on 12.01.2024 and that this is second petition to suspend the sentence.

7.The learned Government Advocate(Crl.side) would submit that the petitioner has seven previous cases, in which, one case is pending for trial.

8.At this juncture, the learned counsel appearing for the petitioner would submit that except the present case, the petitioner was acquitted in other cases.

9.But the learned Government Advocate(Crl.side) would submit that the petitioner was convicted in four cases and he has produced list of previous cases, which shows that the petitioner was convicted for the offence under Section 4(1)(a) TNP Act and Section 110 Cr.P.C.



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10. It is not in dispute that the petitioner is in judicial custody from 05.12.2023 and he was in prison for one month earlier with reference to the present case.

11. The learned counsel appearing for the petitioners would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioners have already paid the fine amount.

12. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioners and hence, he strongly opposed to grant suspension of sentence.

13. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

14. The learned counsel appearing for the petitioners pointed out that certain infirmities and inconsistencies in this case and also 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 as such, this Court is of the considered view that the petitioners herein are entitled to the relief of grant of suspension of sentence.

15. Accordingly, the relief of suspension of sentence and bail is granted to the petitioners on the following conditions:-



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(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, Rajapalayam;

(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 petitioner shall appear before the trial Court twice in a month i.e., on alternative Mondays at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of 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.

sd/-
26/09/2024

/ TRUE COPY /

01/10/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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GNS
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1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE JUDICIAL MAGISTRATE,
RAJAPALAYAM.

3 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, VIRUDHUNAGAR DISTRICT AT
SRIVILLIPUTHUR.

4 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

5 THE INSPECTOR OF POLICE
RAJAPALAYAM SOUTH POLICE STATION,
VIRUDHUNAGAR DISTRICT

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

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-11834[I] dated 26/09/2024)



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ORDER
IN
Crl.M.P(MD)No.1964 of 2024
in
Crl.R.C.(MD)No.1420 of 2023
Date :26/09/2024

SA/JGB/SAR. /01.10.2024/7P/8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.