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

Tuesday, the Twenty Seventh day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.2383 of 2024
in
CRL RC(MD)No.210 of 2024

RASIQ MOHAMMED KHAN @ RASIQ ... REVISION PETITIONER/ APPELLANT/
ACCUSED No.1

Vs

THE INSPECTOR OF POLICE
KENIKKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.
CRIME NO.312 OF 2017.

... 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 pass an order of Suspension of Sentence passed by the Principal Sessions Judge, Ramanathapuram in Crl.A.No.41 of 2023 dt.30.10.2023 and confirmed the order passed in Sc.No.35 of 2019 on the file of the Chief Judicial Magistrate, Ramanathapuram dated 15.6.2023.

Prayer in CRL RC(MD). 210/ 2024 :

To call for the records and set aside the judgment passed by the Principal Sessions Judge, Ramanathapuram in Crl.A.No.41 of 2023 dated 30.10.2023 and confirmed the order passed in SC.No.35 of 2019 on the file of the Chief Judicial Magistrate, Ramanathapuram dated 15.06.2023 and allow the above appeal petition.



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 M/S.GOPALAN T.K., Advocate for the petitioner and of Mr.A.THIRUVADIKUMAR, Additional Public Prosecutor on behalf of the Respondent while admitting the Criminal Revision Petition., the Court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in CrI.A.No.41 of 2023, dated 30.10.2023, on the file of the learned Principal Sessions Judge, Ramanathapuram, and to enlarge the petitioner on bail, till the disposal of this Criminal Revision.

2. The case of the prosecution is that due to previous enmity, the revision petitioner along with other accused assaulted P.W.6 while he was proceeding to his work. Thereafter, based on a complaint given by the brother-in-law of P.W.6, the respondent police registered a case in Crime No.312 of 2017 and filed a charge sheet against the petitioner under Sections 341, 294(b), 324 and 307 of IPC which was taken on file in S.C.No.35 of 2019 on the file of the learned Judicial Magistrate, Ramanathapuram. The petitioner was convicted by the learned Judicial Magistrate, Ramanathapuram, for the offence punishable under Section 326 of IPC and sentenced him to undergo 2 years imprisonment for the offence and to pay a fine of Rs.1,000/- with the default conditional clause. The petitioner has preferred an



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appeal before the learned Principal Sessions Judge, Ramanathapuram. The appellate Court has also confirmed the order of the trial Court. Aggrieved against the same, the petitioner has filed the present revision along with the suspension of sentence petition.

3. The learned counsel for the petitioners submitted that though the brother-in-law of P.W.6 was not present at the place of occurrence, without considering the same, based on his complaint, the respondent police have registered FIR. Moreover, the trial Court ought to have considered the fact that after the alleged incident, P.W.6 went to the Government Hospital, Ramanathapuram, for taking treatment however, no medical record was produced before the trial court by the prosecution. Since the petitioner is a coolie and the only breadwinner, due to his incarceration, the entire family is suffering. Learned counsel further submitted that there are some arguable points involved in the criminal appeal and if the petitioner is released on bail, he is ready to abide any conditions imposed by this Court and thereby, he prayed for bail.

4. Per contra, Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor would submit that there are enough materials available on record against the petitioner and hence, opposed for allowing the petition.



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5. Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

6. Considering the arguable points of the petitioner and the facts and circumstances of the case, this Court is of the *prima facie* view that the sentence is to be suspended pending this Appeal.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Principal Sessions Judge, Ramanathapuram, in CrI.A.No.41 of 2023 dated 30.10.2023 alone is suspended, subject to the following conditions:-

i) 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 Chief Judicial Magistrate, Ramanathapuram;

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



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iii) In case, 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 trial Court i.e., the learned learned Chief Judicial Magistrate, Ramanathapuram.

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

sd/-
27/02/2024

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/02/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PKN

TO

1 THE PRINCIPAL SESSIONS JUDGE,
RAMANATHAPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM.



3 THE INSPECTOR OF POLICE
KENIKKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.

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

COPY TO:
THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (CALL FOR RECORDS)

+1 CC to M/s.T.K.GOPALAN, Advocate (SR-2435[I] dated 28/02/2024)

ORDER
IN
CRL MP(MD) No.2383 of 2024
in
CRL RC(MD)No.210 of 2024
Date :27/02/2024
(1/2)

SS/VR/SAR- /29/02/2024/6P/7C

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