



CRL MP(MD) No.3313 of 2024

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

Monday, the Eighteenth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.3313 of 2024

in

CRL A(MD)No.233 of 2024

1 ROBINSON

2 BALASUBRAMONIAN @ BALAN

... PETITIONERS/ APPELLANTS/  
ACCUSED Nos.1 & 2/ ACCUSED Nos.1 & 2

Vs

THE INSPECTOR OF POLICE  
SUCHINDRUM POLICE STATION,  
SUCHINDRUM CIRCLE,  
KANYAKUMARI DISTRICT.  
CR.NO.193/2015

... RESPONDENT/RESPONDENT/  
COMPLAINANT/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 Sentence as imposed on the petitioners by the Honourable Principal Sesions Judge Kanyakumari District at Honourable Principal Sessions Judge Kanyakumari District at Nagercoil (Special Court Under Mines and Minerals Act) made in Spl.S.C.No.73 of 2021 dated 06.03.2024 forthwith and thereby enlarge the Petitioners on bail, pending disposal of the above Criminal Appeal.



**CRL MP(MD) No.3313 of 2024**

**PRAYER in CRL A(MD)No.233 of 2024:**

To allow the above Criminal Appeal and consequently set aside the order of conviction and sentence as imposed on them by the Hon'ble Principal Sessions Judge, Kanyakumari District at Nagercoil, (Special Court under Mines and Minerals Act) made in Spl.S.C.No.73 of 2021 dated 06.03.2024 forthwith.

**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.S.PALANIVELAYUTHAM, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate(Crl.side) on behalf of the Respondent while admitting the Criminal Appeal., the Court made the following order:-

The petitioners have filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on them by the learned Principal Sessions Judge/Special Sessions Judge (Special Court under Mines and Minerals Act), Kanyakumari District at Nagercoil, in Spl.S.C.No.73 of 2021 dated 06.03.2024 and to enlarge them on bail, pending disposal of the Criminal Revision Petition.

2. It is submitted by the learned counsel for the petitioners that a case has been registered against the petitioner in Crime No.193 of 2015 on the file of the respondent/Inspector of Police, Suchindrum Police Station, Kanyakumari District, for the offences punishable under Sections 379 of IPC and the same was taken on file in Spl.S.C.No.73 of 2021 before the learned Principal Sessions Judge/Special



**CRL MP(MD) No.3313 of 2024**

Sessions Judge (Special Court under Mines and Minerals Act), Kanyakumari District

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at Nagercoil. The petitioner was convicted and sentenced to undergo two years rigorous imprisonment and a fine of Rs.5,000/- (Rupees Five Thousand only) each with three months simple imprisonment in case of default under Section 379 of IPC. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Criminal Miscellaneous Petition seeking suspension of sentence.

3. Learned counsel for the petitioners further submitted that the prosecution has failed to prove the allegation levelled against the petitioners and to corroborate the evidence of prosecution witnesses. He further submitted that the trial Court without considering the materials available on record and also the evidence rendered by the witnesses in an appropriate manner, had convicted the petitioners in the said crime and hence, there has been miscarriage of justice and also an erroneous judgment came into existence. There is no evidence to prove the charge levelled against the petitioners and the prosecution has not established its case beyond reasonable doubts and therefore, prayed for suspension of sentence.



CRL MP(MD) No.3313 of 2024

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4. Per contra, Mr.M.Muthumanikkam, learned Government Advocate (Crl. side) appearing on behalf of the respondent vehemently opposed this petition informing that the allegations levelled against the petitioners/accused are serious in nature. The alleged occurrence pertains to illegal transportation of sand and there is cogent and convincing evidence against the accused. The trial Court, after considering the evidence available on record in a proper perspective, has rightly convicted the petitioners and hence, prays to dismiss the petition.

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

6. This Court finds force in the submission of the learned counsel for the petitioners and hence, this Court is of the *prima facie* view that there are arguable points involved in this Criminal Appeal. Moreover, the petitioners' sentence has already been suspended by the trial Court vide order, dated 06.03.2024 in Crl.M.P.No.1506 of 2024 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.



**CRL MP(MD) No.3313 of 2024**

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7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Principal Sessions Judge/Special Sessions Judge (Special Court under Mines and Minerals Act), Kanyakumari District at Nagercoil, in Crl.A.No.78 of 2023 dated 31.10.2023 alone is suspended, subject to the following conditions:-

i) The petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Principal Sessions Judge/Special Sessions Judge (Special Court under Mines and Minerals Act), Kanyakumari District at Nagercoil.

ii) The petitioners shall appear and sign before the learned Principal Sessions Judge/Special Sessions Judge (Special Court under Mines and Minerals Act), Kanyakumari District at Nagercoil, on the first working day of every English calender month at 10.30 a.m., until further orders.

iii) In case, if the petitioners are unable to appear before the Court on the first working day of a month, they shall appear on the next working day.

iv) The petitioners shall furnish their residential address and mobile number to the Trial Court ie., learned Principal Sessions Judge/Special Sessions Judge (Special Court under Mines and Minerals Act), Kanyakumari District at Nagercoil.



CRL MP(MD) No.3313 of 2024

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allowed.

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

sd/-  
18/03/2024

/ TRUE COPY /

/03/2024

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

RM

TO

- 1 THE PRINCIPAL SESSIONS JUDGE/  
SPECIAL SESSIONS JUDGE,  
(SPECIAL COURT UNDER MINES AND MINERALS ACT),  
KANYAKUMARI DISTRICT AT NAGERCOIL
- 2 THE INSPECTOR OF POLICE  
SUCHINDRUM POLICE STATION, SUCHINDRUM CIRCLE,  
KANYAKUMARI DISTRICT.
- 3 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.

+1 CC to M/s.S.PALANI VELAYUTHAM, Advocate ( SR-3414[I] dated  
20/03/2024 )



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**CRL MP(MD) No.3313 of 2024**

ORDER

IN

CRL MP(MD) No.3313 of 2024

in

CRL A(MD)No.233 of 2024

Date :18/03/2024

SS/JGB/SAR- /22/03/2024/7P/6C

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