



CRL MP(MD) No.4326 of 2023

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

Wednesday, the Twenty Fifth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.4326 of 2023

in

CRL RC(MD) No.298 of 2023

SUNDARAPANDIAN

... PETITIONER / PETITIONER / APPELLANT /
ACCUSED

Vs

THE INSPECTOR OF POLICE
SIVAGANGAI TOWN POLICE STATION,
SIVAGANGAI DISTRICT
(CRIME NO.433 OF 2017) .

... RESPONDENT / RESPONDENT /
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 judgment dated 27.02.2023 made in C.A.No.48 of 2022 on the file of Principal District and Sessions Court, Sivagangai confirming the judgement dated 26.09.2022 made in CC.No.23 of 2020 on the file of the Chief Judicial Magistrate Court, Sivagangai pending disposal of the above criminal revision case.

Prayer in CRL RC(MD). 298/ 2023 :

To call for the records relating to the judgment dated 27.02.2023 made in C.A.No.48 of 2022 on the file of Principal District and Sessions Court, Sivagangai confirming the judgment dated 26.09.2022 made in CC.No.23 of 2020 on the file of the Chief Judicial Magistrate Court, Sivagangai and set aside the same as illegal acquitting the accused.



CRL MP(MD) No.4326 of 2023

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.GANDHI, Senior Counsel for M/S.GANDHI ASSOCIATES, Advocate for the petitioner and of Mr.K.SANJAI GANDHI, Government Advocate (Crl. side) on behalf of the Respondent, the Court made the following order:-

RESERVED ON	19.09.2024
PRONOUNCED ON	25.09.2024

The above petition has been filed seeking orders to suspend the sentence imposed on the petitioner/sole accused by the learned Chief Judicial Magistrate, Sivagangai, in C.C.No.23 of 2020, dated 26.09.2022, which was confirmed by the learned Principal District and Sessions Judge, Sivagangai, in C.A.No.48 of 2022, dated 27.02.2023.

2. The case of the prosecution is that on 31.05.2017 at about 07.45 p.m., when one Krishnan was riding a two wheeler bearing Registration No.TN-59-AT-5314 with one Muthumani as a pillion rider in Thanjavur to Manamadurai National Highway near Okkur B Colony Cemetery, Vinnarasi Illam in the left side of the road, an Innova Car bearing Registration No.TN-63-G-0312, which was coming from south to north and was driven by the petitioner/accused in a rash and negligent manner, had



CRL MP(MD) No.4326 of 2023

dashed against the two wheeler and as a result of which, the said Krishnan and Muthumani had sustained grievous injuries and both of them succumbed to the injuries and on that basis, FIR came to be registered in Crime No.433 of 2017 against the petitioner.

3. After completing the investigation, charge sheet came to be filed for the offence under Section 304(A) IPC under two counts.

4. During trial, the prosecution has examined 16 witnesses as P.W.1 to P.W.16 and exhibited 10 documents as Ex.P.1 to Ex.P.10. The defence has adduced neither oral nor documentary evidence.

5. The learned Chief Judicial Magistrate, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the judgment dated 26.09.2022 convicting the petitioner for the offence under Section 304 (A) IPC under two counts and sentenced him to undergo one year simple imprisonment and to pay a fine of Rs.1,000/- for each count and in default, to undergo one month simple imprisonment for each count.

6. Aggrieved by the said judgment of conviction and sentence, the petitioner has preferred an appeal in C.A.Nos.48 of 2022 and the learned Principal District and Sessions Judge, Sivagangai, upon considering the evidence and on hearing the arguments on both the sides, has passed the judgment on 27.02.2023, dismissing the



CRL MP(MD) No.4326 of 2023

appeal and thereby confirming the judgment of conviction passed by the trial Court.

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Challenging the dismissal of the appeal, the petitioner has come forward with the present criminal revision along with the above application for suspension of sentence.

7. The learned Senior Counsel appearing for the petitioner would submit that the petitioner has surrendered voluntarily on 13.08.2024, that he is not having any other previous cases and that the petitioner may be granted the relief of suspension of sentence.

8. The learned Senior Counsel appearing for the petitioner would further 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 petitioner has already paid the fine amount.

9. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

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

11. The learned Senior Counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in



CRL MP(MD) No.4326 of 2023

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, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

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

(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 Chief Judicial Magistrate, Sivagangai;

(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 once in a month i.e., on the first working day of every English calendar month 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



CRL MP(MD) No.4326 of 2023

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any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-
25/09/2024

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

CSM
TO

1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
SIVAGANGAI

2 THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI

3 THE INSPECTOR OF POLICE
SIVAGANGAI TOWN POLICE STATION,
SIVAGANGAI DISTRICT

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

+1 CC to M/s.M/S.GANDHI ASSOCIATES, Advocate (SR-11761[I] dated
25/09/2024)



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CRL MP(MD) No.4326 of 2023

ORDER
IN
CRL MP(MD) No.4326 of 2023
in
CRL RC(MD) No.298 of 2023
Date :25/09/2024

SA/SAR. /09.10.2024/7P/6C

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