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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Twenty Second day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.3592 of 2024
in
CRL RC(MD) No.317 of 2024

SURESH KUMAR ... PETITIONER/PETITIONER /APPELLANT/ACCUSED NO.1

Vs

THE INSPECTOR OF POLICE
CCIW-CID, TIRUNELVELI DISTRICT.
CR.NO.2/2007 ... 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 in Judgement dt 30.03.2023 made in CC.No.23/2008 on the file of the Judicial Magistrate No.II (CCIW-Special) Court Tirunelveli Which was partly allowed by the Judgment dt 05.02.2024 made in Crl.Appeal No.60/2023 on the file of the Ist Additional District Court, Tirunelveli enlarge the petitioner on bail.

Prayer in CRL RC(MD). 317/ 2024 :
To allow the revision and set aside the partly allowed Judgment date 05.02.2024 made in Crl.A.No.60/2023 on the file of the 1st Additional District Court, Tirunelveli against the Conviction Judgment dt 30.03.2023 made in CC.No.23/2008 on the file of Judicial Magistrate No.II, Tirunelveli (CCIW-Special Court), Tirunelveli.

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.GOKUL K, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR,

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Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence passed against him by the learned I-Additional District and Sessions Judge, Tirunelveli, in Crl.A.No.60 of 2023 dated 05.02.2024 modifying the conviction and sentence imposed by the learned Judicial Magistrate No.II, (CCIW-Special), Tirunelveli, in C.C.No.23 of 2008 dated 30.03.2023 and to enlarge him on bail, pending disposal of the Criminal Revision Petition.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner and other accused in Crime No.2 of 2007 for the offence under Sections 467,468,471,477(A), 408 r/w 109 IPC and the same was taken on file in C.C.No.23 of 2008 on the file of the learned Judicial Magistrate No.II (CCIW-Special), Tirunelveli. The petitioner/A1 was convicted and sentenced as follows:

Accused	Offence punishable under Section	Sentence of imprisonment
A1	467 IPC	3 years simple imprisonment and a fine of Rs.5000/-, in default, to undergo 2 months simple imprisonment.

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Accused	Offence punishable under Section	Sentence of imprisonment
A1	468 IPC	3 years simple imprisonment and a fine of Rs.5000/-, in default, to undergo 2 months simple imprisonment.
	471 IPC	6 months simple imprisonment and a fine of Rs.2000/-, in default, to undergo 1 month simple imprisonment.
	477(A) IPC	Fine of Rs.5000/-, in default, to undergo 1 month simple imprisonment.
	408 IPC	3 years simple imprisonment and a fine of Rs.5000/-, in default, to undergo 2 months simple imprisonment.

3. Challenging the above said conviction and sentence, the petitioner has preferred an appeal before the learned I-Additional District and Sessions Judge, Tirunelveli, in Crl.A.No.60 of 2023 and the learned District Judge modified the conviction and sentence passed by the trial Court as follows and partly allowed the appeal.

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Accused	Offence punishable under Section	Sentence of imprisonment
A1	467 IPC	1 year simple imprisonment and a fine of Rs.5000/-, in default, to undergo 2 months simple imprisonment.
A1	468 IPC	1 year simple imprisonment and a fine of Rs.5000/-, in default, to undergo 2 months simple imprisonment.
	471 IPC	6 months simple imprisonment and a fine of Rs.2000/-, in default, to undergo 1 month simple imprisonment.
	477(A) IPC	Fine of Rs.5000/-, in default, to undergo 1 month simple imprisonment.
	408 IPC	1 year simple imprisonment and a fine of Rs.5000/-, in default, to undergo 1 month simple imprisonment.

4. Aggrieved over the same, the petitioner filed the present Criminal Revision Petition along with the above Miscellaneous Petition seeking suspension of sentence.

5. The learned counsel for the petitioner further submitted that in the case of the co-accused, the proceedings were quashed by this Court. But the same has not been considered in the petitioner's case. He further submitted that the learned

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Sessions Judge has failed to appreciate that the report under Section 81 of the Co-operative Societies Act is unsustainable in the eye of law. He would also submit that there are some arguable points involved in the criminal revision and hence, he prays for suspension of sentence.

6. Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor has no serious objection to suspend the sentence as against the petitioner.

7. Heard the learned counsel on either side and perused the materials available on record.

8. Considering the submissions made by the learned counsel for the petitioner and also considering the fact that the proceedings against the co-accused were quashed by this Court, this Court is of the prima facie view that the sentence is to be suspended pending this Criminal Revision Petition.

9. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned I-Additional District and Sessions Judge, Tirunelveli, in Crl.A.No.60 of 2023 alone is suspended subject to 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 Judicial Magistrate No.II (CCIW-Special), Tirunelveli.

ii) The petitioner shall appear and sign before the learned Judicial Magistrate

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No.II (CCIW-Special), Tirunelveli, on the first working day of every English calender month at 10.30 a.m., until further orders.

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 ie., learned Judicial Magistrate No.II (CCIW-Special), Tirunelveli.

sd/-
22/03/2024

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/04/2024

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

PJL

TO

1 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI.

2 THE JUDICIAL MAGISTRATE NO.II,
(CCIW-SPECIAL),
TIRUNELVELI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

4 THE INSPECTOR OF POLICE,
CCIW-CID, TIRUNELVELI DISTRICT.

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

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ORDER
IN
CRL MP(MD) No.3592 of 2024
in
CRL RC(MD) No.317 of 2024
Date :22/03/2024

RS/GS/SAR-(02.04.2024) 7P 6C
Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023

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