



CRL MP(MD) No.5534 of 2024

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

Monday, the Eleventh day of November Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.5534 of 2024
in
CRL RC(MD)No.529 of 2024

P.MUTHUVEL

... PETITIONER/PETITIONER

Vs

THE INSPECTOR OF POLICE
MATHICHIYAM (L AND O) POLICE STATION,
MADURAI DISTRICT.
CRIME NO. 409/2015

... 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 made in C.A.No.62 of 2022, dated 01.03.2022, on the file of Honble V Additional District Sessions Court, Madurai against the Judgment passed by the Learned Judicial Magistrate II, Madurai in C.C.No.188 of 2015 dated 03.09.2022 and enlarge the petitioner on bail.

Prayer in CRL RC(MD). 529/ 2024 :

To call for the records pertaining to the Judgment passed in C.A.No.62 of 2022 on the file of the V Additional District and Sessions Judge, Madurai District, dated 01.03.2024, by modify the conviction and sentence imposed by the Learned Judicial Magistrate II, Madurai made in CC.No.188 of 2015, by the judgment dated 03.09.2022 and set aside the judgments of Court below and acquit the petitioner.



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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.AYYANAR PREM KUMAR.S, Advocate for the petitioner and of Mr.M.VAIKKAM KARUNANITHI, Government Advocate(Crl.side) on behalf of the Respondents while admitting the Criminal Revision Petition., the Court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed against the petitioner by the learned Judicial Magistrate No.II, Madurai in C.C.No.188 of 2015, dated 03.09.2022, which was confirmed in Criminal Appeal No.62 of 2022, dated 01.03.2022, by the learned V Additional District and Sessions Judge, Madurai, pending disposal of the Criminal Revision Case in Crl.R.C.(MD) No.529 of 2024.

2. The case of the prosecution is that due to previous enmity, on 12.04.2015 at about 9.30 p.m., the accused had waylaid and abused the de-facto complainant in filthy language, and had assaulted the de-facto complainant and his friend with a knife, and also had threatened the de-facto complainant with dire consequences. Hence, a First Information Report came to be registered, as against the accused for the offence under Sections 294(b), 341, 324 and 506(ii) of IPC, by the respondent police.



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3. The respondent, after completing the investigation, has filed the final report and the same was taken on file in C.C.No.188 of 2015 on the file of the Judicial Magistrate No.II, Madurai.

4. The learned counsel appearing for the petitioner submitted that the petitioner/accused has been convicted by the trial Court on 03.09.2022, and the trial Court sentenced the accused to undergo simple imprisonment for a period of two months and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for a period of one month for the offence under Section 294(b) of IPC, and to undergo simple imprisonment for a period of one month and to pay a fine of Rs.500/- in default to undergo simple imprisonment for a period of one month for the offence under Section 341 of IPC, and to undergo simple imprisonment for a period of one year and to pay a fine of Rs.2,000/- in default to undergo simple imprisonment for a period of one month for the offence under Section 324 of IPC, and to undergo simple imprisonment for a period of one year and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for a period of one month for the offence under Section 506(2) of IPC, and the sentences were ordered to run concurrently.



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5. Challenging the above said conviction and sentence, the petitioner has preferred an appeal in Criminal Appeal No.62 of 2022 on the file of the learned V Additional District and Sessions Judge, Madurai. By a judgment, dated 01.03.2024, the learned V Additional District and Sessions Judge, Madurai partly allowed the appeal by modifying the conviction and sentence imposed by the learned Judicial Magistrate No.II, Madurai in C.C.No.188 of 2015 dated 03.09.2022. Accordingly, the accused was sentenced to undergo simple imprisonment for a period of one month and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for a period of one week for the offence under Section 294(b) of IPC, and to undergo simple imprisonment for a period of one month and to pay a fine of Rs.500/- in default to undergo simple imprisonment for a period of one week for the offence under Section 341 of IPC, and to undergo simple imprisonment for a period of six months and to pay a fine of Rs.2,000/- in default to undergo simple imprisonment for a period of one month for the offence under Section 324 of IPC, and to undergo simple imprisonment for a period of six months and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for a period of one month for the offence under Section 506(2) of IPC, and the sentences were ordered to run concurrently.

Being dissatisfied with the said conviction and sentence, the petitioner has preferred



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the present Criminal Revision Case before this Court along with this Miscellaneous
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Petition.

6. It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case, and also there are contradictions in material particulars between the evidence of the prosecution witnesses.

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

8. This Court has carefully considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent, and has also perused the materials available on record.

9. The learned counsel for the petitioner pointed out that there are certain infirmities and inconsistencies in this case, and also there are 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, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

10. Accordingly, this petition is allowed and the substantive sentence of



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imprisonment alone is suspended pending disposal of the revision with the following directions :

(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 II, Madurai.

(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.

sd/-
11/11/2024

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/11/2024

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

MKN

TO

1 THE V ADDITIONAL DISTRICT AND
SESSIONS JUDGE, MADURAI DISTRICT.



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2 THE JUDICIAL MAGISTRATE NO.II
MADURAI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.

4 THE INSPECTOR OF POLICE
MATHICHIYAM (L AND O) POLICE STATION,
MADURAI DISTRICT.

5 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.S.AYYANAR PREM KUMAR, Advocate (SR-13828[I] dated
11/11/2024)

ORDER
IN
CRL MP(MD) No.5534 of 2024
in
CRL RC(MD)No.529 of 2024
Date :11/11/2024

SS/SKN/SAR- /18/11/2024/ 7P/8C

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