



CRL MP(MD) No.5880 of 2024

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

Friday, the Twelfth day of July Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.5880 of 2024
in
CRL RC(MD)No. 573 of 2024

SIVANPANDI

... PETITIONER/PETITIONER

Vs

THE INSPECTOR OF POLICE
PERUMALPURAM POLICE STATION,
TIRUNELVELI TOWN,
TIRUNELVELI.

... 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 on the petitioner vide Judgment made in Criminal Appeal No.58/2017 dated 4/12/2018 by the Learned 3rd Additional Sessions Judge, dated 4/12/2018, Tirunelveli confirming the Judgment made in SC No.317/2008 dt.24/8/2017 by the learned Principal Assistant Sessions Judge, Tirunelveli and enlarge the petitioner on bail pending disposal of the above Criminal Revision Petition.

Prayer in CRL RC(MD). 573/ 2024 :

To call for the records relating to the judgment made in Criminal Appeal No.58/2017 dated 4/12/2018 by the learned 3rd Additional Sessions Judge, Tirunelveli confirming the Judgment made in SC.No.317/2008 dated 24/8/2017 by

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the learned Principal Assistant Sessions Judge, Tirunelveli and set aside the same.

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.V.ANGUSAMY, Advocate for the petitioner and of MR.B.THANGA ARAVINDH, Government Advocate (Criminal Side) on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

This petition has been filed to suspend the sentence imposed vide Judgment made in Criminal Appeal No.58 of 2017 dated 04.12.2018 by the learned III Additional Sessions Judgment dated 04.12.2018, Tirunelveli confirming the Judgment made in S.C.No.317 of 2008 dated 24.08.2017 by the learned Principal Assistant Sessions Judge, Tirunelveli and enlarge the petitioner on bail pending disposal of the above Criminal Revision case.

2. The case of the prosecution is that on 23.09.2005 at about 7.45 a.m., the complainant went to hospital in Palayamkottai. Again went to the market and at about 12.00 noon, she returned home. At that time, the accused went to the house of the complainant and asked water. When the complainant went inside her house to take water, the accused was talking something. On suspicion, the complainant tried to lock the door inside her house. Suddenly, the accused pushed the door and the accused caught hold of the Hair of the complainant and threatened her with knife and asked her to give them the Thali chain. Then the accused took the complainant to the room, where bureau was kept. The accused broke open the bureau and took

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Minor chain and Necklace and then asked to give him her bangle. He tried to cut the bangle with knife and it caused injury on the right hand of the complainant. After taking the bangle and other ornaments the accused tied the hands and legs of the complainant escaped from scene. Then the neighbour took the complainant to the Government Hospital, Tirunelveli. Hence the complainant was lodged against the petitioner.

3. On the basis of the complaint lodged by P.W.1, a case came to be registered in Crime No.960 of 2005 for the offences under Section 394 r/w 397 of IPC.

4. The respondent police, after completing the investigation, has laid a final report for the offences under Section 394 r/w 397 of IPC. The same was taken on file in S.C.No.317 of 2008, on the file of the learned Principal Assistant Sessions Judge, Tirunelveli.

5. During trial, the prosecution has examined 13 witnesses as P.W.1 to P.W.13 and exhibited 14 documents as Ex.P.1 to Ex.P.14 and marked 5 Material Objects as M.O.1 to M.O.5. However, neither a witness was examined nor a document was exhibited on the side of the accused.

6. The learned learned Principal Assistant Sessions Judge, Tirunelveli, after full-fledged trial, has passed the judgment in S.C.No.317 of 2008, dated 24.08.2017 and convicted the petitioners/accused for the offence under Section 448 of IPC and



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sentenced them to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.1000/- each, in default, to undergo 3 months Rigorous Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the III Additional Sessions Judge, Tirunelveli in C.A.No.58 of 2017. However, the same was dismissed on 04.12.2018, thereby confirming the punishment imposed on the petitioner. Aggrieved over the above said conviction and sentence, imposed by the Courts below, the petitioners preferred the present Criminal Appeal along with the present Miscellaneous Petition seeking for suspension of sentence.

7. The learned counsel for the petitioner would submit that there are several infirmities in the prosecution case. Further, the recovery of properties are not properly proved. He would further submit that the petitioner is surrendered and he is in custody from 23.12.2006. Hence, he seeks suspension of sentence.

8.The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioners and hence, he strongly opposed this petition.

9.This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

10.The petitioner is said to have committed the offence under Section 394 r/w

397 of IPC. This Court considered the incarceration period of the petitioner from
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23.12.2006, and also his son has filed an affidavit before this Court and undertakes to rehabilitate for his father namely, the petitioner. Hence, the petitioner is entitled to the relief of grant of suspension of sentence.

11. Accordingly, the relief of suspension of sentence 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 Judicial Magistrate, Tirunelveli.

(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 respondent police daily twice, i.e., 10.30 a.m. and 5.30 p.m., till the disposal of the appeal.

sd/-
12/07/2024

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12/07/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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RJR
TO
WHY COPY

- 1 THE III ADDITIONAL SESSIONS JUDGE, TIRUNELVELI.
- 2 THE PRINCIPAL ASSISTANT JUDGE, TIRUNELVELI.
- 3 THE JUDICIAL MAGISTRATE, TIRUNELVELI.
- 4 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.
- 5 THE INSPECTOR OF POLICE
PERUMALPURAM POLICE STATION,
TIRUNELVELI TOWN, TIRUNELVELI.
- 6 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI
- 7 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

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

+1 CC to M/s.V.ANGUSAMY, Advocate (SR-7848[I] dated 12/07/2024)

ORDER
IN

CRL MP(MD) No.5880 of 2024
in

CRL RC(MD)No. 573 of 2024
Date :12/07/2024

PKP/12.07.2024/ 6P/ 10C

Madurai Bench of Madras High Court is issuing certified
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