



CRL MP(MD) No.5005 of 2024

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

Tuesday, the Thirtieth day of April Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.5005 of 2024

IN

CRL RC(MD)No. 460 of 2024

M.ANTHONY ROY

... PETITIONER/ APPELLANT/ ACCUSED NO.1

Vs

THE INSPECTOR OF POLICE
COMMERCIAL CASES INVETIGATION WING
(ECONOMIC OFFENCE WING),
NO.3, RAJARAJESHWARI NAGAR,
PERUMALPURAM, TIRUNELVELI DISTRICT.
CRIME NO.1/2015.

... 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 Judgment dated 13/9/2023 made in CC No.2/2016 on the file of the Judicial Magistrate Court, No.II (CCIW-Special) Court, Tirunelveli, which was confirmed dismissing the appeal by the Judgment dated 14/3/2024 made in Crl Appeal No. 162 of 2023 on the file of the I Additional District and Sessions court, Tirunelveli.

Prayer in CRL RC(MD). 460/ 2024 :

To allow the revision and set aside the dismissal order Judgment dated 14/3/2024 made in Crl.A.No.162/2023 on the file of 1st Additional District Sessions Court, Tirunelveli confirming the conviction Judgment dated 13/9/2023 made in CC

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) No.5005 of 2024

No.2/2016 on the file of the Judicial Magistrate No. II (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 MR.K.GOKUL, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate (Criminal Side) on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

This petition is filed to suspend the sentence imposed on the petitioner by the I Additional District and Sessions Judge, Tirunelveli, in C.A.No.162 of 2023 dated 14.03.2024 in confirming the judgment of conviction and sentence made in C.C.No.2 of 2016 on the file of the learned Judicial Magistrate No.II, (CCIW Special) Court, Tirunelveli dated 13.09.2023 and enlarge the petitioner on bail pending disposal of the main Criminal Revision.

2.The case of the respondent is that during the period from 10.05.2013 to 09.05.2014, 0.1652 Uvari Fishermen's Co-operative Society, which was under the control of Joint Director, Radhapuram Commodity Fishermen's Cooperative Society, when the Anthony Roy was a secretary of society and the Second accused namely Gnanirajadurai was working as a clerk, the sale amount for selling kerosene sent from Topgobet Company, Tuticorin to the Thava Society is Rs.65,21,057/-. The Thava Society has paid a sum of Rs.55,47,000/- only to the Tuticorin Topgobet Company. The petitioner and other accused said to have misappropriated a sum of



CRL MP(MD) No.5005 of 2024

Rs.10,80,000/- and lost to the Bank. Hence, the respondent registered a case in Crime No.1 of 2015 for the offence under Sections 408, 409 and of IPC. After the investigation, the respondent police filed a final report and the same was taken on file in C.C.No.2 of 2016 by the learned Judicial Magistrate No.II, (CCIW-Special Court) Tirunelveli.

3.During trial, the complainant and other have been examined as P.W.1 to P.W.15 and exhibited 398 documents as Ex.P.1 to Ex.P.398 and no material objects were marked. On the side of the accused, neither a document was produced nor a witness was examined.

4.The learned Judicial Magistrate No.II, (CCIW-Special Court) Tirunelveli, after full-fledged trial, has passed the judgment in C.C.No.2 of 2016, dated 13.09.2023, and convicted the petitioner for the offence under Sections 409 and 477(A) of IPC, and sentenced him to undergo one year simple imprisonment with fine of Rs.5,000/- in default to undergo one month simple imprisonment for the offence under Section 409 of IPC and sentenced him to pay fine of Rs.5,000/- in default to undergo one month simple imprisonment for the offence under Section 477(A) of IPC. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the learned I Additional District and Sessions Judge, Tirunelveli, in

C.A.No.162 of 2023. However, the same was dismissed on 14.03.2024, thereby
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CRL MP(MD) No.5005 of 2024

confirming the conviction and sentence imposed on the petitioner. Aggrieved over the above said conviction and sentence imposed by the Courts below, the petitioner preferred the present Criminal Revision Case along with the present Miscellaneous Petition seeking for suspension of sentence.

5.The learned counsel for the petitioner submitted that there are some arguable points involved in the criminal revision and the learned trial Judge as well as the Appellate Judge has not considered the evidence in proper prospective and hence, the judgments are suffered from perversity. He further submitted that the petitioner has also undertakes to deposit a sum of Rs.5,00,000/- (Rupees Five Lakh only). Hence, he seeks for the suspension of sentence.

6. This Court has carefully considered the submission made by the counsel for the petitioner and also perused the materials available on record.

7. Considering the fact that the petitioner undertakes to deposit a sum of Rs.5,00,000/- (Rupees Five Lakh only) and there was no antecedent against the petitioner and there are some arguable points involved in the criminal revision, this Court is inclined to grant suspension of sentence.

8. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision with the following

directions:-

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CRL MP(MD) No.5005 of 2024

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(i) The petitioner shall deposit a sum of Rs.5,00,000/- (Rupees Five Lakh only) to the credit of C.C.No.2 of 2016 on the file of the learned Judicial Magistrate No.II (CCIW-Special Court), Tirunelveli, within a period of four weeks from the date of receipt of a copy of this order, failing which the sentence suspended shall automatically be dismissed and the first respondent is at liberty to execute the sentence imposed by the trial Court against the petitioners in the manner known to law;

(ii) On such deposit, 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 Court), Tirunelveli,;

(iii) 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

(iv) 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.

8.1. On such deposit being made, the learned trial judge, is hereby directed to re-deposit the said amount of Rs.5,00,000/- (Rupees Five Lakh only) in any one of the Nationalized Bank in interest bearing account.



CRL MP(MD) No.5005 of 2024

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9.Post the matter on 12.07.2024, for reporting compliance.

sd/-
30/04/2024

/ TRUE COPY /

/06/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SBN

TO

- 1 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, TIRUNELVELI.
- 2 THE JUDICIAL MAGISTRATE NO.II (CCIW SPECIAL COURT), TIRUNELVELI.
- 3 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 4 THE INSPECTOR OF POLICE
COMMERCIAL CASES INVETIGATION WING
(ECONOMIC OFFENCE WING),
NO.3, RAJARAJESHWARI NAGAR,
PERUMALPURAM, TIRUNELVELI DISTRICT.



CRL MP(MD) No.5005 of 2024

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

ORDER
IN
CRL MP(MD) No.5005 of 2024
IN
CRL RC(MD)No. 460 of 2024
Date :30/04/2024

PKP/VR/SAR /11.06.2024/ 7P/ 6C

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