



Crl.M.P.(MD) No.7315 of 2023

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

Tuesday, the Nineteenth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

Crl.M.P.(MD) No.7315 of 2023
in
Crl.RC (MD) No.500 of 2023

ESAAC

... PETITIONER/REVISION PETITIONER

Vs

1 THE INSPECTOR OF POLICE
MANOOR POLICE STATION,
CRIME NO.403/2017,
TIRUNELVELI DISTRICT.

.. RESPONDENT/REVISION RESPONDENT

2 THE SUPERINTENDENT OF PRISON
CENTRAL PRISON,PALAYAMKOTTAI. ...2ND RESPONDENT

(R2 IS SUO-MOTU IMPEADED AS PER
ORDER OF THE COURT DT 11/09/2023 IN
CRL.MP(MD)7316 OF 2023 IN CRL.RC.(MD)
500 OF 2023 BY K.K.R.K.J)

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 by granting bail in the order passed by the IV Additional District and Sessions Judge,Tirunelveli District in his CA.No.26/2021 dt.22/2/2023 in confirming the judgement of the learned Judicial Magistrate No.V, Tirunelveli in CC No.367/2017 dated 17/02/2021 till the disposal of the criminal revision.



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Prayer in CRL RC(MD). 500/ 2023 :

To call for the records from the lower court and duly set aside the order passed by the Honble IV Additional Sessions Judge, Tirunelveli, Tirunelveli District in his CA.No.26/2021 dt.22/2/2023 in confirming the judgement of the Judicial Magistrate No.V, Tirunelveli District in C.C.No.367 of 2017 dated 17.02.2021 by allowing this revision.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.V.KATHIRVELU, Senior Counsel for M/S.PRABHU K, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate(Crl.side) on behalf of the Respondents the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in Crl.A.No.26 of 2021, dated 22.02.2023, on the file of the learned IV Additional District and Sessions Judge, Tirunelveli District and to enlarge the petitioner on bail, till the disposal of this Criminal Revision.

2. The case of the prosecution is that on 11.08.2017, at about 02:30 p.m, the petitioner/accused has made an attempt to break open the door of the house of the defacto complainant (P.W.1) and thereby, based on a complaint given by P.W.1, a case has been registered in Crime No. 403 of 2017 for the offences punishable under Sections 454, 380 and 511 of IPC and the same was taken on file in C.C.No.367 of 2017 before the learned Judicial Magistrate No.V, Tirunelveli. The petitioner was convicted



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and sentenced to undergo 5 months S.I and to pay a fine of Rs.500/- with conditional clause for the offence under Section 380 r/w. 511 of IPC and ordered the sentence to run concurrently along with C.C.No.363 of 2017 and C.C.No.364 of 2017. The petitioner has preferred an appeal before the learned IV Additional District and Sessions Judge, Tirunelveli District. The appellate Court has also confirmed the order of the trial Court. Aggrieved against the same, the petitioner has filed the present revision along with the suspension of sentence petition.

3. The learned counsel for the petitioner submitted that the defacto complainant in her deposition stated that on 11.08.2017, while she was returning back to her home at 02.30 p.m. from the School where she was working, she noticed that the wooden log of her house has been dismantled, however, in the cross-examination, she admitted that her working hours in the School is between 8.30 a.m. and 05.30 p.m. Secondly, P.W.1 deposed that she saw the petitioner sitting near to the backside door and when she shouted the petitioner ran away, per contra, P.W.2 has deposed that he secured the accused in the scene of occurrence and produced before the police station. Hence, these aspects are not considered by the Court below while convicting the petitioner. Learned counsel further submitted he is having a good case to succeed in the main revision and thereby, he prayed for bail.



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4. Per contra, learned Government Advocate (Crl. Side) submitted that both the Courts below have meticulously and concurrently found that the accused is guilty for the offence charged and hence, he opposed to grant the suspension of sentence.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Crl. Side) appearing for the respondent and perused the materials available on record.

6. Considering the limited period of sentence and the facts and circumstance of the case, this Court is of the prima facie view that the sentence imposed on the petitioner is to be suspended pending this Revision.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned IV Additional District and Sessions Judge, Tirunelveli District, in Crl.A.No.26 of 2021 dated 22.02.2023 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-



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sum to the satisfaction of the learned Judicial Magistrate No.V,
Tirunelveli;

ii) The petitioner shall appear and sign before the learned Judicial Magistrate No.V, Tirunelveli, on the first working day of every English calendar 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 i.e., the learned Judicial Magistrate No.V, Tirunelveli.

8. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed.

sd/-
19/03/2024

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/03/2024

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

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TO

1.THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI DISTRICT

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



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2. THE JUDICIAL MAGISTRATE NO.V, TIRUNELVELI.

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3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI

4 THE INSPECTOR OF POLICE

MANOOR POLICE STATION, TIRUNELVELI DISTRICT.

5 THE SUPERINTENDENT OF PRISON

CENTRAL PRISON, PALAYAMKOTTAI.

6 THE ADDITIONAL PUBLIC PROSECUTOR,

MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.JEYAMOHAN, Advocate (SR-3445[I] dated 20/03/2024)

ORDER IN

Crl.M.P.(MD) No.7315 of 2023

in

Crl.RC (MD) No.500 of 2023

Date :19/03/2024

RK/VR (26/03/2024) 6P / 8C

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