



Crl.M.P.(MD) No.7257 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.7257 of 2023
in
Crl.RC (MD) No.491 of 2023

ESAAC

... PETITIONER/REVISION PETITIONER

Vs

1 THE INSPECTOR OF POLICE
MANOOR POLICE STATION,
CRIME NO.139/2014,
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.RC.(MD)491 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



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Sessions Judge, Tirunelveli District in his CA.No.27/2021 dt.22/2/2023 in confirming the judgement of the learned Judicial Magistrate No.V, Tirunelveli in CC No.364/2017 dated 17.02.2021 till the disposal of the criminal revision.

Prayer in CRL RC(MD). 491/ 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.27/2021 dt.22/2/2023 in confirming the judgement of the Judicial Magistrate No.V, Tirunelveli, Tirunelveli District in C.C.No.364 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.27 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 07.04.2014, at about 01:00 p.m, the

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petitioner/accused broke open the door and unlawfully entered into the house of the defacto complainant (P.W.1) and committed theft of jewels worth about Rs.70,000/-.

Based on the complaint of P.W.1, a case has been registered in Crime No. 139 of 2014 for the offences punishable under Sections 454 and 380 of IPC and the same was taken on file before the learned Judicial Magistrate No.V, Tirunelveli. The petitioner was convicted and sentenced to undergo 1 year S.I and to pay a fine of Rs.1,000/- with conditional clause for the offence under Section 454 of IPC and to undergo 2 years S.I and to pay a fine of Rs.2,000/- with conditional clause for the offence under Section 380 of IPC. 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 alleged occurrence took place on 07.04.2014, whereas, the FIR reached to the Court only on 09.04.2016 and the said delay was not properly explained by the prosecution. The petitioner was taken into custody and the confession was recorded in the presence of one Karuppasamy and Samy and during the course of enquiry, the said Karuppasamy turned hostile and another witness namely Samy is not at all available in the Village.



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Added to that, the Court below has failed to appreciate the contradiction in lifting the fingerprint. Learned counsel further submitted he is having a good case to succeed in the main revision and thereby, he prayed for bail.

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.27 of 2021 dated 22.02.2023 alone is suspended, subject to the



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following conditions:-

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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.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.



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

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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.

pkn

TO

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

2. THE JUDICIAL MAGISTRATE NO.V, TIRUNELVELI

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-3443[I] dated 20/03/2024)



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ORDER

IN

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in

Crl.RC (MD) No.491 of 2023

Date :19/03/2024

RK/VR (26/03/2024) 7P / 8C

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