



CRL MP(MD) No.6828 of 2023

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

Wednesday, the Thirty First day of July Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
and

The Hon`ble Mr.Justice K. RAJASEKAR
CRL MP(MD) No.6828 of 2023, 5208 and 5210 of 2024

IN

CRL A(MD) No.97 and 144 of 2023

GUNASEKARAN ... PETITIONER/ APPELLANT/ ACCUSED NO.6
IN CRL MP(MD).6828/ 2023

VAIRAMUTHU ... PETITIONER/ APPELLANT/ ACCUSED NO.5
IN CRL MP(MD).5208/ 2024

MANIKANDAN ... PETITIONER/ ACCUSED NO.4
IN CRL MP(MD).5210/ 2024

Vs

THE INSPECTOR OF POLICE
B3-THEPAKULAM (L & O) POLICE STATION,
MADURAI DISTRICT.
(CRIME NO.1134/2017)

... RESPONDENT/RESPONDENT/COMPLAINANT
IN CRL MP(MD).6828/ 2023

... RESPONDENT/RESPONDENT
IN CRL MP(MD).5208 & 5210/ 2024

Prayer in CRL MP(MD).6828/ 2023 :

To Suspend the Execution of sentence by granting bail in SC No.267/2019 dated 21.12.2022 on the file of the Learned Sessions Judge, Mahalir Neethimandram, Madurai till the disposal of the Criminal Appeal.

Prayer in CRL MP(MD). 5208/ 2024 :

To suspend the sentence imposed on me in S.C No. 267 of 2019 dt. 21.12.2022 on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai and enlarge

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me on bail pending disposal of the appeal.

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Prayer in CRL MP(MD). 5210/ 2024 :

To suspend the sentence imposed on me in S.C No. 267 of 2019 dt. 21.12.2022 on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai and enlarge me on bail pending disposal of the appeal.

Prayer in CRL A(MD).97/2023 :

To admit this appeal on file, to call for the records from the lower court in S.C.No.267 of 2019 on the file of the Learned Sessions Judge, Mahalir Neethimandram, Madurai and set aside the Judgment dated 21.12.2022 by acquitting the accused by allowing the appeal.

Prayer in CRL A(MD).144/2023 :

To call for the records and set aside the order of conviction and sentence passed in S.C.No.267/2019 dated 21.12.2022 on the file of the Learned Sessions Judge, Mahalir Neethimandram, Madurai and allow this appeal and acquit the Appellants / Accused from the charge leveled against them.

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.PRABHU.K, Advocate for the petitioner in CRL MP(MD).6828/2023 and MR.A.K.AZHAGARSAMY, Advocate for MR.G.KARUPPASAMY PANDIYAN, Advocate for the petitioner in CRL MP(MD).5208 & 5210/2024 and of MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent in all CRL MP's, the court made the following order:-

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

The present petitions have been filed by the appellants/ accused to suspend the sentence imposed on them by the learned Sessions Judge, Mahalir Neethimandram, Madurai in S.C.No. 267 of 2019.

2. The petitioners stands convicted and sentenced as under:



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Section of Law	Sentence of imprisonment	Fine amount
120(B) r/w. 364A of IPC	Life imprisonment	Rs.5000/- i/d to undergo one year simple imprisonment

3. The case of the prosecution is that the accused persons have kidnapped the children of the defacto complainant for ransom. Hence the complaint.

4. Learned Senior counsel appearing for the petitioners would submit that petitioner/A6 and the learned counsel appearing for petitioners 4 and 5 would submit that they have been roped in this case as if they conspired with the main accused in kidnapping the children. Further P.W.8 has been examined by the prosecution to speak about the conspiracy, however he has not supported the case of prosecution and he has been treated hostile. He would further submit that the evidence regarding recovery is also doubtful. The defence side has examined chief news reader of a television channel and he has admitted that the accused were shown to be arrested on 17.11.2017 ie., on the next day of occurrence, whereas as per the prosecution the petitioners were stated to be shown arrested on 20.11.2017, thereby the recovery is also doubtful. The learned Senior Counsel would further submit that admittedly even as per P.W.1 there was previous enmity between P.W.1 and A1 on account of financial dispute and since the petitioners are friends of A1 they have been falsely roped in in this case. The learned Senior Counsel would further submit that



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the petitioners were on bail during trial. He would also submit that petitioners being friends of A1 have been falsely roped on the basis of conspiracy which has not been proved, hence he seeks for indulgence of this court.

5.The respondent has filed detailed counter. Learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners are friends of A1 and they have conspired with the main accused and they have assisted him in kidnapping the children for ransom. He would further submit that there was recovery of cash from the petitioners and thereby he would vehemently oppose for grant of bail to the petitioners.

6. Heard the learned counsel on either side and perused the materials available on record.

7. The petitioners have been roped in in this case on the basis of alleged conspiracy between them and A1. PW.8 has been examined by the prosecution for conspiracy however he has not supported the case of prosecution and taking into consideration all the facts and circumstances of case and also having regard to the fact that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the period of incarceration and also taking into consideration the facts and circumstances of the case, we are inclined to suspend the sentence imposed on the petitioners

pending the Appeal.

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8. Accordingly, these criminal miscellaneous petitions are allowed and the substantive sentence of imprisonment imposed on the petitioners herein alone is suspended pending the Appeal, subject to the following conditions:

- i. The petitioners are directed to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Sessions Judge, Mahalir Neethimandram, Madurai
- ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Committal Court may obtain a copy of their Aadhar card or Bank passbook to ensure their identity.
- iii. The petitioners shall stay at Villupuram and report before the Villupuram Town Police station daily at 10.30 am., until further orders.
- iv. It is made clear that the petitioners shall not enter into the jurisdictional limits of the respondent Police Station until further orders.

sd/-

31/07/2024

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02/08/2024

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



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TO

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1 THE SESSIONS JUDGE, MAHALIR NEETHIMANDRAM, MADURAI.

2 THE INSPECTOR OF POLICE, B3-THEPAKULAM (L & O) POLICE STATION,
MADURAI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

COPY TO

THE INSPECTOR OF POLICE, VILLUPURAM TOWN POLICE STATION,
VILLUPURAM.

+1 CC to M/s.K.PRABHU, Advocate (SR-9169[I] dated 01/08/2024)

ORDER

IN

CRL MP(MD) No.6828 of 2023, 5208 and 5210 of 2024

IN

CRL A(MD) No.97 and 144 of 2023

Date :31/07/2024

RS//SAR-(02.08.2024) 6P 7C

Madurai Bench of Madras High Court is issuing
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