



CRL MP(MD) No.5237 of 2024

WEB COPY

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

Thursday, the Sixteenth day of May Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.5237 of 2024
in
CRL RC(MD)No. 486 of 2024

1 RASU @ RAJENDRAN

2 SELVENDIRAN

3 BALAKUMAR

4 RAJA

5 SARATHKUMAR

... PETITIONERS/PETITIONERS

Vs

THE INSPECTOR OF POLICE
PEW POLICE STATION,
THANJAVUR.
(CRIME NO.357/2020).

... 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 upon the petitioners in Criminal Appeal No.196/2023 by the Principal Sessions Judge, Thanjavur dated 16/4/2024, modifying the Judgment of conviction and sentence made in CC No.178/2021 by the learned JM No.II,Thanjavur dated 25.07.2023 and enlare them on bail pending disposal of he main Criminal Revision Case.

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



CRL MP(MD) No.5237 of 2024

WEB COPY

Prayer in CRL RC(MD). 486/ 2024 :

To call for the records pertaining to the Judgement of Conviction and sentence passed by the Learned Principal Sessions Judge, Thanjavur in Criminal Appeal No.196/2023 dated 16/4/2024 modifying the conviction and sentence imposed upon the petitioners by the Learned Judicial Magistrate No.II, Thanjavur in C.C.No. 178 of 2021 dated 25.07.2024 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.T.LENINKUMAR, Advocate for the petitioner and of MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor 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 against the petitioners/Accused Nos.1 to 5 passed in C.C.No.178 of 2021, dated 25.07.2023 on the file of the learned Judicial Magistrate, Thanjavur, which was modified by the learned Principal District and Sessions Judge, Thanjavur, in C.A.No.196 of 2023, dated 16.04.2024 pending disposal of the Criminal Revision Case.

2. The case of the prosecution is that on 19.04.2020, at about 05.00 p.m, when the police parties were on patrol duty near Meikkaltharisu at Vallam Area, the petitioners / Accused Nos.1 to 5 were found in possession of 600 Litres of fermented wash and 110 Litres of country arrack. Based on the complaint given by P.W.1/Govindharajan, F.I.R. was registered in Crime No.178 of 2021 for the offence under Sections 4 (1)(aaa) and 4(1)(g) of Tamil Nadu Prohibition Act. After



CRL MP(MD) No.5237 of 2024

completion of investigation, final report was filed before the learned Judicial Magistrate No.II, Thanjavur, and the same was taken on file in C.C.No.178 of 2021.

3. Before the trial Court, on the side of the prosecution, 6 witnesses have been examined as P.W.1 to P.W.6 and 16 documents were marked as Ex.P1 to Ex.P16. On the side of the accused no witnesses was examined and no documents was marked. One Court document was marked as Ex.C1.

4. The learned Judicial Magistrate No.II, Thanjavur, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 25.07.2023 convicting the petitioners for the offence under Section 4(1)(aaa) of the Tamil Nadu Prohibition Act and sentenced them to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.2,000/- each, in default, to undergo simple imprisonment for a period of six months and convicting the petitioners for the offence under Section 4(1)(g) of the Tamil Nadu Prohibition Act and sentenced them to undergo simple imprisonment for a period of three months.

5. The learned Principal District and Sessions Judge, Thanjavur, has modified the conviction and sentence to undergo 6 months rigorous imprisonment and to pay a fine of Rs.2,000/- each in default to undergo six months simple imprisonment for the offence under Section 4 (1)(aaa) of the Tamil Nadu Prohibition Act and to



CRL MP(MD) No.5237 of 2024

undergo three months simple imprisonment for the offence under Section 4(1)(g) of the Tamil Nadu Prohibition Act in Criminal Appeal No.196 of 2023 dated 16.04.2024. Challenging the judgment of the appellate Court, the petitioners/Accused Nos.1 to 5 have preferred the present revision along with the above application for suspension of sentence.

6. It is submitted by the learned counsel appearing for the petitioners that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

7. It is submitted by the learned Additional Public Prosecutor appearing for State that there are enough materials available on record against the petitioners and prays for dismissal of this petition.

8. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

9. The learned counsel appearing for the petitioners pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioners

herein are entitled to the relief of grant of suspension of sentence.

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



CRL MP(MD) No.5237 of 2024

WEB COPY

10. Accordingly, the suspension of sentence petition is allowed and the sentence of the imprisonment alone is suspended pending disposal of the revision on the following conditions:-

(i) the petitioners are directed to be enlarged on bail on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Thanjavur ;

(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 petitioners shall appear before the trial Court at 10.30 a.m. on the first working day of every English Calendar month until further orders.

sd/-
16/05/2024

/ TRUE COPY /

/05/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

LS
TO

1 THE PRINCIPAL SESSIONS JUDGE
THANJAVUR .

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



CRL MP(MD) No.5237 of 2024

WEB COPY

- 2 THE JUDICIAL MAGISTRATE NO.II, THANJAVUR
- 3 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT @ KUMBAKONAM.
- 4 THE INSPECTOR OF POLICE
PEW POLICE STATION, THANJAVUR.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.T.LENINKUMAR, Advocate (SR-5536[I] dated 17/05/2024)

ORDER
IN
CRL MP(MD) No.5237 of 2024
in
CRL RC(MD)No. 486 of 2024
Date :16/05/2024

PKP/VR/SAR /21.05.2024/ 6P/ 7C
Madurai Bench of Madras High Court is issuing certified
copies in this format from 17/07/2023