



Crl.M.P.(MD)No.5240 of 2024

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

Tuesday, the Eighteenth day of June Two Thousand and Twenty Four

PRESENT

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

Crl.M.P.(MD)No.5240 of 2024

in

Crl.RC.(MD)No.487 of 2024

ASHRAF

... PETITIONER/ APPELLANT/
SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
KALLIDAIKURICHI POLICE STATION,
TIRUNELVELI DISTRICT.
CRIME NO. 135 OF 2019

... RESPONDENT/RESPONDENT/
COMPLAINANT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspending the sentence imposed through the judgment and conviction passed by the learned I Additional District and Sessions Judge, Tirunelveli in C.A No.142 of 2023 by which dt. 30.04.2024 while confirming the judgment of learned Assistant Sessions Judge, Ambasamudram in S.C.No.139 of 2020 dated 30.08.2023 pending the disposal of the main criminal Revision petition.

Prayer in CRL RC(MD). 487/ 2024 :

To call for the entire records pertaining to the judgment and conviction passed by the learned I Additional District and Sessions Judge, Tirunelveli in C.A No. 142 of 2023 by which dt. 30.04.2024 while confirming the judgment of learned Assistant Sessions Judge, Ambasamudram in S.C.No.139 of 2020 dated 30.08.2023 and set aside the same and thereby acquit the petitioner from the charge leveled in the said case

honorably

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



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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.ANAND R., Advocate for the petitioner and of Mr.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed on the petitioner by the learned Assistant Sessions Judge, Ambasamudram in S.C.No.139 of 2020, dated 30.08.2023, which was confirmed by the learned I Additional District and Sessions Judge, Tirunelveli in C.A.No.142 of 2023, dated 30.04.2024.

2. The case of the prosecution is that there was a motive between PW1's family and the accused family in connection with Jamath issue. P.W.1 has shared the false message in Whatsapp and Facebook about the father of the petitioner by using filthy language. Therefore, on 16.05.2019, at about 5.00 p.m., when P.W.1 was waiting in front of Jaffer's shop to purchase vada, the petitioner came there and scolded P.W.1 and said to have attempted to attack the neck of P.W.1 with sickle and the same was prevented with his left hand and hence, P.W.1 sustained injuries on his left hand wrist and also the petitioner caused injuries to P.W.1's right side eye brow. Immediately, P.W.3 admitted him in the private hospital. After taking the first aid treatment, he was referred to Medical College Hospital, Tirunelveli for further treatment and the injured also discharged from the hospital,

3. On the basis of the complaint lodged by P.W.1, a case came to be registered in



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Crime No.135 of 2019 for the offences under Sections 294(b), 307, 506(ii) of IPC.

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4. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 294(b), 307, 506(ii) of IPC. The same was taken on file in S.C.No.139 of 2020, on the file of the learned Assistant Sessions Judge, Ambasamudram.

5. During trial, the prosecution has examined 13 witnesses as P.W.1 to P.W.13 and exhibited 16 documents as Ex.P.1 to Ex.P.16 and marked 3 Material Objects as M.O.1 to M.O.3. However, neither a witness was examined nor a document was exhibited on the side of the accused.

6. The learned Assistant Sessions Judge, Ambasamudram, after full-fledged trial, has passed the judgment in S.C.No.139 of 2020, dated 30.08.2023 and convicted the petitioner/accused for the offence under Section 307 of IPC and sentenced them to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo for 1 month Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the I Additional District and Sessions Judge, Tirunelveli in C.A.No.142 of 2023. However, the same was dismissed on 30.04.2024, thereby confirming the punishment imposed on the petitioner. Aggrieved over the above said conviction and sentence, imposed by the Courts below, the petitioner preferred the present Criminal Appeal along with the



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present Miscellaneous Petition seeking for suspension of sentence.

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7. The learned counsel for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. Further, the recovery of properties are not properly proved. He would further submit that the petitioner is surrendered before the respondent Police. Hence, he seeks suspension of sentence.

8. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed this petition.

9. This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

10. The petitioner is said to have committed the offence under Section 294(b), 307, 506(ii) of IPC. It is the specific case of the petitioner that the recovery of properties was not proved. Further, the learned counsel for the petitioner pointed out certain infirmities and inconsistencies in the prosecution witness. Therefore, this Court prima facie satisfied 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 Considering the period of incarceration and also the facts that as on date prevailing peace in the locality, there is no bad antecedent against the



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petitioner and the injured also discharged from the hospital, this Court is inclined to allow this petition. Therefore, the petitioner is entitled to the relief of grant of suspension of sentence.

11. Accordingly, the relief of suspension of sentence is granted to the petitioner on 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 sum to the satisfaction of the learned Judicial Magistrate, Ambasamudram, Tirunelveli.

(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 petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
18/06/2024

/ TRUE COPY /

19/06/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.



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RJR

TO

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1 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI.

2 THE ASSISTANT SESSIONS JUDGE,
AMBASAMUDRAM.

3 THE JUDICIAL MAGISTRATE,
AMBASAMUDRAM, TIRUNELVELI DISTRICT.

4 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

6 THE INSPECTOR OF POLICE
KALLIDAIKURICHI POLICE STATION, TIRUNELVELI DISTRICT.

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

+1 CC to M/s.R.ANAND, Advocate (SR-6661[I] dated 19/06/2024)

ORDER IN

CRL MP(MD) No.5240 of 2024

Date :18/06/2024

SA/SAR. /19.06.2024/6P/9C

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