



CRL MP(MD) No.6030 of 2024

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

Thursday, the Twentieth day of June Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.6030 of 2024

in

CRL RC(MD)No.590 of 2024

REKA

... PETITIONER/PETITIONER

Vs

THE SUB INSPECTOR OF POLICE
WEST POLICE STATION,
KUMBAKONAM,
CRIME NO.997/2022.

... 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 enlarge the petitioner on bail by suspending the sentence imposed in CC No.57/2023 on the file of the learned Judicial Magistrate No.I, Kumbakonam dated 9/10/2023, which had been confirmed in Crl.A.No.241/2023 on the file of the Learned Principal Sessions Judge, Thanjavur, Thanjavur District by Judgment dated 10.04.2024 pending disposal of the main Criminal Revision Petition.

Prayer in CRL RC(MD). 590/ 2024 :

To call for the records and set aside the Judgment dated 10/4/2024 passed in Crl.A.No.241/2023 on the file of the Learned Principal Sessions Judge, Thanjavur confirming the conviction and sentence imposed upon the petitioner in CC No.57/2023 on the file of the Learned Judicial Magistrate No.I, Kumbakonam, Thanjavur District.



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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.R.ILAYARAJA, 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 enlarge the petitioner on bail by suspending the sentence imposed upon her in C.C.No.57 of 2023 on the file of the learned Judicial Magistrate No.I, Kumbakonam dated 09.10.2023, which had been confirmed in Crl.A.No.241 of 2023 on the file of the learned Principal Sessions Judge, Thanjavur, Thanjavur District by Judgment dated 10.04.2024 pending disposal of the main Criminal Revision Petition.

2. The case of the prosecution is that on 17.12.2022 at about 6.30 p.m., when P.W.1 came to Kumbakonam from Nagapattinam, she went to Venkatraman Sweet Stall at Kumbakonam New bus stand, where she noticed that her purse of Rs.40,000/, key and ATM card was missing. Immediately, PW1 lodged a complaint regarding the above said theft and the case was registered in Crime No.997/2022 for the offence u/s 379 of IPC. The police visited the occurrence place at Kumbakonam new Bus stand on the same date at 8.40 P.M in the presence of the witnesses Sivasankaran and Sakthi. While the police was searching the accused, on suspicious



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he enquired the accused 1 to 3, who were standing in the Kumbakonam New bus stand and arrested them with the help of women police. At that time, the first accused voluntarily gave confession statement in the presence of witnesses Balathandayutham and Sekar. Based on the confession statement, the police seized an amount of Rs.30,000/- along with material objects pertaining to other cases were recovered at her house at Chinna Salem in the presence of the witnesses Balathandayutham and Sekar. The accused was sent for remanding to judicial custody. PW1 received the stolen money of Rs.30,000/- from the court on filing petition. On completion of his investigation, charge sheet was filed.

3. On the basis of the complaint lodged by P.W.1, a case came to be registered in Crime No.997 of 2022 for the offences under Section 379 r/w 109 of IPC.

4. The respondent police, after completing the investigation, has laid a final report for the offences under Section 379 r/w 109 of IPC. The same was taken on file in C.C.No.57 of 2023, on the file of the learned Judicial Magistrate No.I, Kumbakonam.

5. During trial, the prosecution has examined 7 witnesses as P.W.1 to P.W.7



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and exhibited 14 documents as Ex.P.1 to Ex.P.14 and no material objects were marked. However, neither a witness was examined nor a document was exhibited on the side of the accused.

6. The learned Judicial Magistrate No.I, Kumbakonam, after full-fledged trial, has passed the judgment in C.C.No.57 of 2023, dated 09.10.2023 and convicted the petitioner/accused for the offence under Section 379 of IPC and sentenced them to undergo 2 years Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo for 1 month Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the learned Principal Sessions Judge, Thanjavur, Thanjavur District by Judgment dated 10.04.2024. However, the same was dismissed on 10.04.2024, 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 present Miscellaneous Petition seeking for suspension of sentence.

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



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particulars between the evidence of the prosecution witnesses. Further, the recovery of properties are not properly proved. 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 379 r/w 109 of IPC. Further, the learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. So 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 as such, this Court is of the considered view that the petitioner herein are in custody from 18.12.2022 and sentence of imprisonment imposed against the co-accused has also been suspended. Hence, the petitioner is entitled to the relief of grant of suspension of sentence.



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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 No.I, Kumbakonam. Among two sureties, one surety must be a local surety.

(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 everyday at 10.30 a.m. and 5.00 p.m., till the disposal of the appeal.

sd/-
20/06/2024

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/06/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RJR



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TO
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- 1 THE PRINCIPAL SESSIONS JUDGE,
THANJAVUR.
 - 2 THE JUDICIAL MAGISTRATE NO.I
KUMBAKONAM, THANJAVUR DISTRICT.
 - 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
THANJAVUR DISTRICT AT KUMBAKONAM.
 - 4 THE SUB INSPECTOR OF POLICE
WEST POLICE STATION, KUMBAKONAM,
 - 5 THE OFFICER INCHARGE,
SPECIAL PRISON FOR WOMEN AT TIRUCHIRAPPALLI.
 - 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
- +1 CC to M/s.P.MANIANANDH, Advocate (SR-6719[I] dated 20/06/2024)

ORDER
IN
CRL MP(MD) No.6030 of 2024
in
CRL RC(MD)No.590 of 2024
Date :20/06/2024

SS/SAR- /24/06/2024/7P/8C

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