



Crl.M.P(MD)No.6892 of 2024

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

Thursday, the Seventeenth day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

Crl.M.P(MD)No.6892 of 2024

in

Crl.R.C.(MD)No.673 of 2024

ESAKKIPANDI

... PETITIONER/PETITIONER

Vs

THE INSPECTOR OF POLICE
SIVANTHIPATTI POLICE STATION
TIRUNELVELI DISTRICT.
CRIME NO.98/2018.

... 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 up on the petitioner in Criminal Appeal No.142/2018 on the file of the 3rd Additional District and Sessions Judge Tirunelveli dt 08.08.2023 modifying the conviction and sentence made in CC.No.193/2018 by the learned Judicial Magistrate No.III, Tirunelveli, dated 23.11.2018 and enlarge him on bail pending disposal of the main Criminal Revision Case.

Prayer in CRL RC(MD). 673/ 2024 :

To call for the records pertaining to the judgement of the learned III Additional District and Sessions Judge Tirunelveli passed in Criminal Appeal No.142/2018 dt 08.08.2023 modifying the Conviction and sentence of the petitioner imposed by the Learned Judicial Magistrate No.III, Tirunelveli in C.C.No.193 of 2018 dated 23.11.2018 and set aside the same.

<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 M/S.LENIN KUMAR.T, Advocate for the petitioner and of Mr.K.SANJAI GANDHI, Government Advocate(crl.side) on behalf of the Respondent, While admitting the Criminal Revision Case, the court made the following order:-

The above petition has been filed to suspend the sentence imposed on the petitioner/sole accused by the learned Judicial Magistrate No.III, Tirunelveli, in C.C.No.193 of 2018, dated 23.11.2018, which was modified by the learned III Additional District and Sessions Judge, Tirunelveli in C.A.No.142 of 2018, dated 08.08.2023.

2. The case of the prosecution is that on 03.06.2018 at about 01.50 a.m., when the defacto complainant was sleeping in her house, the petitioner trespassed into the house and snatched 24 gram gold chain and three cell phones from her. Hence, FIR came to be registered in Crime No.98 of 2018.

3. The respondent, after completing the investigation, has filed the final report and the case was taken on file in C.C.No.193 of 2018 and the same was pending on the file of the Judicial Magistrate No.III, Tirunelveli.

4. The learned counsel appearing for the petitioner would submit that the trial Court has found the petitioner guilty for the offences under Sections 457 and 380 IPC and sentenced him to undergo 3 years rigorous imprisonment and to pay a fine of

Rs.1,000/-, in default, to undergo 1 month simple imprisonment for the offence under



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Section 457 IPC and to undergo 3 years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 1 month simple imprisonment for the offence under Section 380 IPC and that the above sentences were ordered to be run consecutively.

5. Challenging the above said conviction and sentence, the petitioner has preferred an appeal in C.A.No.142 of 2018 on the file of the III Additional District and Sessions Court, Tirunelveli. The learned Sessions Judge, while partly allowing the appeal, has modified the sentence for the offence under Section 457 IPC from 3 years to 1 year and for the offence under Section 380 IPC from 3 years to 1 year and confirmed the fine amount and ordered to run the sentences concurrently. Being dissatisfied with the said conviction and sentence, the petitioner has preferred the present criminal revision along with the above application for suspension of sentence.

6. The learned counsel appearing for the petitioner would submit that the petitioner was arrested on 18.09.2024 and is in Central Prison, Palayamkottai and he has produced the medical records showing that the petitioner is having acute parenchymal renal disease and is taking treatment. He would further 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.

7. The learned Government Advocate (Criminal Side) appearing for the



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respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

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 petitioner 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 taking note of the medical condition of the petitioner, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

10. Accordingly, the relief of suspension of sentence and bail 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.III, 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



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their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

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sd/-
17/10/2024

19/10/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM
TO
1 THE III ADDITIONAL DISTRICT
AND SESSIONS JUDGE, TIRUNELVELI.

2 THE JUDICIAL MAGISTRATE NO.III
TIRUNELVELI.

3 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, TIRUNELVELI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.



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5 THE INSPECTOR OF POLICE
SIVANTHIPATTI POLICE STATION
TIRUNELVELI DISTRICT.

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

+1 CC to M/s.T.LENINKUMAR, Advocate (SR-12618[I] dated 17/10/2024)

ORDER
IN
Crl.M.P(MD)No.6892 of 2024
in
Crl.R.C.(MD)No.673 of 2024
Date :17/10/2024

SA/SAR. /19.10.2024/6P/8C

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