



CRL MP(MD) No.7334 of 2024

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

Wednesday, the Twenty Fourth day of July Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.7334 of 2024

in

CRL RC(MD)No. 706 of 2024

ESAKKI

... PETITIONER/PETITIONER

Vs

THE INSPECTOR OF POLICE
THATCHANALLUR POLICE STATION,
TIRUNELVELI DISTRICT.
CRIME NO. 148 OF 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 on the petitioner by the IIIrd Addl District Sessions court, Tirunelveli in C.A No. 153 of 2023 dt 01.02.2024 by which modifying the judgment and conviction order passed in C.C No. 1339 of 2019 on the file of the learned Judicial Magistrate Court No. 4, Tirunelveli dated 30.08.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Revision Petition on the file of this Hon'ble Court.

Prayer in CRL RC(MD). 706/ 2024 :

To call for the records of the learned III Additional District and Sessions court, Tirunelveli in C.A No. 153 of 2023 and to set aside the conviction and sentence judgment dt. 01.02.2024 by which modifying the judgment and conviction order passed in C.C No. 1339 of 2019 on the file of the learned Judicial Magistrate Court No. 4, Tirunelveli dated 30.08.2023 by acquitting the petitioner herein.



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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.IYAPPAN.R, Advocate for the petitioner and of MR.B.THANGA ARAVINDH, Government Advocate (Criminal Side) on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

This petition is filed to suspend the sentence imposed on the petitioner by the III Additional District and Sessions Court, Tirunelveli, in C.A.No.153 of 2023 dated 01.02.2024, by modifying the judgment and conviction imposed by the learned Judicial Magistrate Court No.4, Tirunelveli, in C.C.No.1339 of 2019, dated 30.08.2023 pending disposal of the main Criminal Revision.

2. The case of the prosecution is that on 28.07.2018 at about 11.30 a.m., the petitioner had attempt to commit theft of two plastic barrels from the defacto complainant's cow shed. Hence, the respondent Police registered a case in Crime No.148 of 2018 for the offences under Sections 380 of IPC. After completion of investigation, the final report was filed and the same was taken on file by the learned Judicial Magistrate No.-IV, Tirunelveli in C.C.No.1339 of 2019. The learned trial Judge, after completed all the legal formalities conducted the trial.

3. During the trial, the prosecution has examined 4 witnesses as P.W.1 to P.W.4 and exhibited 6 documents as Ex.P.1 to Ex.P.6 and one material object was marked as



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M.O.1. However, neither a witness was examined nor a document was exhibited on the side of the accused.

4. The learned trial Judge, after considering the evidence, documents and material objects, convicted the petitioner for the offence under Section 380 of IPC and to undergo one year of Rigorous Imprisonment and to pay a sum of Rs.5,000/- as fine, in default to undergo 1 week simple Imprisonment. Challenging the same, the petitioner filed the appeal along with the suspension of sentence. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the learned Additional District Sessions Court, Tirunelveli, in C.A.No.153 of 2023. However, the same was partly allowed on 01.02.2024, thereby modifying the conviction from one year to 6 months. Aggrieved over the above said conviction and sentence, imposed by the Courts below, the petitioner preferred the present Criminal Revision Case along with the present Miscellaneous Petition seeking for suspension of sentence.

5. The learned counsel for the petitioner submitted that there are some arguable points involved in the criminal revision and the learned trial Judge as well as the Appellate Judge has not considered the evidence in proper prospective and hence, the judgments are suffered from perversity. He further submitted that the petitioner was



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in judicial custody from 28.05.2024.

6. The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that the petitioner had attempt to commit theft of two plastic barrels from the defacto complainant's cow shed. He further submitted that no previous case is pending against the petitioner.

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

8. Considering the nature of the accusation and there is no previous antecedent against the petitioner and also considering the period of incarceration, this Court inclines to suspend the sentence of the imprisonment with 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.4, Tirunelveli;



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(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/-
24/07/2024

/ TRUE COPY /

25/07/2024
Sub-Assistant Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA
TO

- 1 THE III ADDITIONAL DISTRICT
SESSIONS JUDGE, TIRUNELVELI.
- 2 THE JUDICIAL MAGISTRATE NO.IV
TIRUNELVELI
- 3 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 4 THE INSPECTOR OF POLICE
THATCHANALLUR POLICE STATION,
TIRUNELVELI DISTRICT.



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5 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

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

COPY TO
THE SECTION OFFICER,
CRIMINAL RECORDS
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.IYAPPAN, Advocate (SR-8497[I] dated 24/07/2024)

ORDER
IN
CRL MP(MD) No.7334 of 2024
in
CRL RC(MD)No. 706 of 2024
Date :24/07/2024

PKP/25.07.2024/ 6P/ 9C

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