



CRL MP(MD) No.11567 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Wednesday, the Tenth day of January Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.11567 of 2023
IN
CRL RC(MD) No.868 of 2023

ASHOK
NOW CONFINED AT,
CENTRAL PRISON,TRICHY

... PETITIONER/PETITIONER/
APPELLANT/APPELLANT/SOLE ACCUSED

Vs

THE SUB INSPECTOR OF POLICE
KARUR TOWN POLICE STATION,
KARUR DISTRICT.
CRIME NO.1021 OF 2017.

... RESPONDENT/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 suspend the sentence imposed on the petitioner vide order dated 20.01.2023 made in Crl.A.No.18 of 2022 on the file of the District Judge,Karur confirming the conviction and sentence imposed by the learned Judicial Magistrate No.I, Karur in C.C.No.31 of 2018, dated 28.12.2021.

Prayer in CRL RC(MD). 868/ 2023 :

To call for the records pertaining to the judgment dated 20.01.2023 passed in Crl.A.(MD)No.18 of 2022 on the file of the District Judge,Karur confirming the conviction and sentence imposed by the learned Judicial Magistrate No.I,Karur in C.C.No.31 of 2018, dated 28.12.2021 and set aside the same by allowing the above Revision Petition.



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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.BALASUBRAMANIAN.N, Advocate for the petitioner and of Mr.S.MANIKANDAN, Government Advocate on behalf of the Respondent, the Court made the following order:-

RESERVED ON	27.11.2023
PRONOUNCED ON	10.01.2024

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the learned District Judge, Karur in CrI.A.No.18 of 2022 dated 20.01.2023 confirming the judgment passed by the learned Judicial Magistrate No.I, Karur, in C.C.No.31 of 2018, dated 28.12.2021 and to enlarge the petitioner on bail pending disposal of the Criminal Revision Case.

2. The case of the prosecution is that on 10.12.2017 at about 11.15 a.m., the defacto complainant has parked his bike bearing registration No.TN-47R-8550 in front of Kannan Departmental Store in Karur and the accused has stolen the said vehicle. Thereafter, the defacto complainant lodged a complaint before the respondent police. FIR was registered in Crime No.1021 of 2017 for the offence punishable under Section 379 of IPC. After completion of investigation, the respondent police has filed the final report and it was taken cognizance in C.C.No.31 of 2018 by the Judicial Magistrate No.I, Karur.



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3. After full trial, the petitioner has been convicted by the trial Court on 28.12.2021 for the alleged offence under Section 379 of Indian Penal Code and sentenced him to undergo simple imprisonment for a period of one year. Aggrieved by the conviction, the petitioner/accused preferred appeal in Crl.A.No.18 of 2022 before the learned District Judge, Karur and it was dismissed on 20.01.2023 confirming the judgment of learned Judicial Magistrate No.I, Karur.

4. It is submitted by the learned counsel for the petitioner that the defacto complainant lodged a compliant after three days from the date of occurrence and the same was not considered by the both Courts below. He further submitted that both the Courts below failed to consider that the alleged vehicle not stood in the name of the defacto complainant. He further submitted that the independent witnesses namely, P.W.2, P.W.3 and P.W.4 have not supported the case of the prosecution and the same was also not considered by the both Courts below and also submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

5. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that on 10.12.2017 at about 11.15 a.m., the defacto complainant has parked his bike bearing registration No.TN-47R-8550 in front of



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Kannan[®] Departmental Store in Karur and the accused has stolen the said vehicle.

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One previous case is pending against the petitioner. He further submitted that there are enough materials available on record against the petitioner and hence, he opposed to grant suspension of sentence.

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

7. The learned counsel for the petitioner pointed out 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 also considering the period of incarceration, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

8. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision with the following directions:-

(i) The petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial



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Magistrate No.I, Karur.

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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 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.

sd/-
10/01/2024

/ TRUE COPY /

10/01/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA

TO

- 1 THE DISTRICT JUDGE,
KARUR.
- 2 THE JUDICIAL MAGISTRATE NO.I
KARUR.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR.
- 4 THE SUB INSPECTOR OF POLICE
KARUR TOWN POLICE STATION,
KARUR DISTRICT.



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5 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY.

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

+1 CC to M/s.N.BALASUBRAMANIAN, Advocate (SR-508[I] dated 10/01/2024)

ORDER
IN
CRL MP(MD) No.11567 of 2023
IN
CRL RC(MD) No.868 of 2023
Date :10/01/2024

SS/SAR- /10/01/2024/6P/8C

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