



CRL MP(MD) No.11566 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.11566 of 2023
IN
CRL RC(MD) No.867 of 2023

ASHOK
NOW CONFINED AT CENTRAL PRISON,
TRICHY DISTRICT ... PETITIONER/PETITIONER/
APPELLANT/APPELLANT/SOLE ACCUSED

Vs

THE SUB INSPECTOR OF POLICE
KARUR TOWN POLICE STATION,
KARUR DISTRICT.
CRIME NO.1024 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 dt.20.1.2023 made in Crl.A.No.17 of 2022 on the file of the Dist.Judge,Karur confirming the conviction and sentence imposed by the Learned Judicial Magistrate-I,Karur in CC.No.32 of 2018, dated 28.12.2021.

Prayer in CRL RC(MD). 867/ 2023 :

To call for the records pertaining to the Judgment dt.20.1.2023 passed in Crl.A. (MD).No.17 of 2022 on the file of the District Judge,Karur confirming the conviction and sentence imposed by the Learned Judicial Magistrate-I,Karur in CC.No.32 of 2018, dated 28.12.2021 and set aside the same by allowing the above Revision Petition.



CRL MP(MD) No.11566 of 2023

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.17 of 2022 dated 20.01.2023 confirming the judgment passed by the learned Judicial Magistrate No.I, Karur, in C.C.No.32 of 2018, dated 28.12.2022 and to enlarge the petitioner on bail pending disposal of the Criminal Revision Case.

2. The case of the prosecution is that on 14.12.2017 at about 11.00 a.m., the petitioner/accused has stolen the vehicle Hero Honda bike, bearing registration No.TN-47-AZ-7845 parked by the defacto complainant in front of the VIP thread store. Thereafter, the defacto complainant lodged police complaint before the respondent police. FIR was registered in Crime No.1024 of 2017 for the offence punishable under Section 379 of IPC. After completion of investigation, the respondent police filed the final report and it was taken cognizance in C.C.No.32 of 2018 by the Judicial Magistrate No.I, Karur.



CRL MP(MD) No.11566 of 2023

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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 judgment, the petitioner/accused preferred appeal in CrI.A.No.17 of 2022 before the learned District Judge, Karur and the same was dismissed on 20.01.2023. Challenging the same, the criminal Revision Case has been filed before this Court along with this miscellaneous petition.

4. It is submitted by the learned counsel for the petitioner that the evidence of P.W.1 to P.W.3 are in contradiction with each other. 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 there is no independent witness to support the case of the prosecution. Both the Courts below have not considered the evidence properly. 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 14.12.2017 at about 11.00 a.m., the defacto complainant has parked his Hero Honda vehicle bearing registration No.TN-47-AZ-7845 in front of the VIP thread store and the accused has stolen the said vehicle. 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 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 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 Magistrate No.I, Karur.



CRL MP(MD) No.11566 of 2023

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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.



CRL MP(MD) No.11566 of 2023

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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-509[I] dated 10/01/2024)

ORDER
IN
CRL MP(MD) No.11566 of 2023
IN
CRL RC(MD) No.867 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