



CRL MP(MD) No.11853 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.11853 of 2023

IN

CRL RC(MD) No.898 of 2023

LEO @ REYNOLD ROSE LEO

... Petitioner / Petitioner

Vs

THE INSPECTOR OF POLICE
WORAIYUR POLICE STATION,
TRICHY.

(CRIME NO.59 OF 2014.)

... 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 passed in C.A No. 6 of 2022 by the Learned III Additional District and Sessions Judge, Trichirappalli dated 27.03.2023 confirming the conviction and sentence made in S.C No. 236 of 2019 on the file of the learned Chief Judicial Magistrate, Trichirappalli by judgment dated 13.10.2021 and enlarge on bail pending disposal of the above criminal revision petition.

Prayer in CRL RC(MD). 898/ 2023 :

To call for the records relating to the order passed in C.A No. 6 of 2022 by the Learned III Additional District and Sessions Judge, Trichirappalli dated 27.03.2023 confirming the conviction and sentence made in S.C No. 236 of 2019 on the file of the learned Chief Judicial Magistrate, Trichirappalli by judgment dated 13.10.2021 and set aside the same.



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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/.M.SURESH, Advocate for the petitioner and of Mr.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

Reserved on : 22.12.2023

Pronounced on : 10.01.2024

The petitioner has filed this petition to suspend the sentence imposed against him in judgment dated 27.03.2023 made in C.A.No.6 of 2022 by the learned III Additional District and Sessions Judge, Trichirappalli, confirming the conviction and sentence passed in S.C.No.236 of 2019 on the file of the learned Chief Judicial Magistrate, Trichirappalli, dated 13.10.2021 and to enlarge him on bail till the disposal of the Criminal Revision Case.

2.The brief facts of the prosecution case:

The petitioner/accused was charged for the offence under Section 392 r/w 397 of IPC alleged that on 25.02.2014 at 14.15 hours the petitioner/accused robbed 2 sovereign gold chain each from the defacto complainant Gayathri and her coworker Thooyamalar Martina when they were at Kamarajar Kalvi Koodam, Nachiarpalayam, Uraiyur, Trichy. The case was conducted before the learned Chief Judicial Magistrate, Trichirappalli and after hearing both, the petitioner/accused was found guilty of the charge and convicted and sentenced to undergo rigorous



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imprisonment for a period of 5 years and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for a period of six months for the offence under Section 392 of IPC by way of judgment dated 13.10.2021. The petitioner/accused preferred the appeal in C.A.No.6 of 2022 before the learned III Additional District and Sessions Judge, Trichirappalli and the appeal was dismissed on 27.03.2023 confirming the conviction and sentence of the trial Court.

3. Aggrieved by the conviction judgment of both lower Courts, the petitioner/accused has preferred the present Criminal Revision Case before this Court. Along with Revision, the petitioner has filed this petition seeking for suspension of sentence and for bail pending disposal of the criminal revision.

4. Heard both sides and perused the records in this Criminal Miscellaneous Petition.

5. The learned counsel for the petitioner/accused has submitted that the petitioner/accused was falsely implicated in this case. The defacto complainant stated that she has given complaint, but in her cross examination deposed that the complaint was written by some one and she only put her signature. P.W.1 and P.W.2 have stated that they only saw the accused at the Court after occurrence and no identification parade was conducted. Since the petitioner was implicated in previous cases, the petitioner was also arrayed as accused in this case. Out of



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previous cases three cases were ended in acquittal. The petitioner is in custody from 13.10.2021 for more than two years. These facts are not considered by the Courts below. The petitioner is the only breadwinner of his family. The petitioner has a fair chance of succeed in this revision. Therefore, the learned counsel for the petitioner prays for suspension of sentence and bail for the petitioner.

6. Per contra, the learned Additional Public Prosecutor would submit that the P.W.1 and P.W.2 who are ocular witnesses clearly deposed that the petitioner/accused robbed the gold chain from them during day time. As the occurrence took place during day time, they identified the accused. So there is no necessary for identification parade. The petitioner is a habitual offender and he is having four previous cases of this nature. The gravity of offence committed by the petitioner has to be looked in this case. Therefore, he opposed to grant suspension of sentence and thereby the petitioner is not entitled to bail.

7. On hearing both side rival arguments and on perusal of records, it is clear that the petitioner was convicted and sentenced to imprisonment as stated supra. During the course of argument, the learned counsel for the petitioner has drawn the attention of the Court to certain grounds of defence that even there is doubt in respect of complaint, P.W.1 deposed she has written in chief whereas in cross examination deposed that she only put her signature in the complaint written by



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someone. It is also contended that after occurrence P.W.1 and P.W.2 only saw the accused before the Court and no identification parade was conducted by the police for the petitioner/accused. However, these are to be decided while deciding the criminal revision on merits.

8. The learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain admission of witnesses. The learned Additional Public Prosecutor has not raised any serious objection except that the petitioner has four previous cases, for which replied by the petitioner that three cases ended in acquittal. The fact remains that there are arguable points involved in this criminal revision, which is of the year 2023 and the same is not likely to be taken up for final hearing in the near future. The petitioner is in custody for more than two years. In the above circumstances and considering the incarceration period, this Court is inclined to consider the relief sought in this petition and holds that the petitioner herein is entitled to the relief of grant of suspension of sentence.

9. Accordingly, the suspension of sentence petition is allowed and the sentence of the imprisonment alone is suspended pending disposal of the revision 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



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sureties each for a like sum to the satisfaction of the learned
Chief Judicial Magistrate, Trichirappalli;

(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 on all
first working day of every week at 10.30 a.m., until further
orders.

sd/-
10/01/2024

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

VSD

To

1.The Chief Judicial Magistrate,
Trichirappalli.

2.The III Additional District and Sessions Judge,
Trichirappalli.



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3.The Inspector of Police,
Woraiyur Police Station,
Trichy.

4.The Superintendent,
Central Prison, Trichy.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CRL MP(MD) No.11853 of 2023
IN
CRL RC(MD) No.898 of 2023
Date :10/01/2024

ED/ /SAR- (10/01/2024) 7P / 6C

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