



CRL MP(MD) No.10545 of 2024

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

Wednesday, the Thirtieth day of October Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE K.MURALI SHANKAR

CRL MP(MD) No.10545 of 2024

IN

CRL RC(MD) No.959 of 2024

SATHRACK

... PETITIONER/PETITIONER

Vs

THE INSPECTOR OF POLICE,
C.C.I.W. POLICE STATION,
NAGERCOIL,
KANYAKUMARI DISTRICT.
CRIME NO. 06/1993

... RESPONDENT/RESPONDENT

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 upon the petitioner in C.C no. 20 of 2003 on the file of the learned Judicial Magistrate No.II, Tirunelveli, Tirunelveli district and by judgment dated 30.03.2005 which had been confirmed in Crl A No. 137 of 2005 on the file of the Learned Sessions Judge, (Fast Track Mahila Court), Nagercoil, Kanyakumari District vide Judgment dated 28.06.2024 pending disposal of the main Criminal Revision Petition.

Prayer in CRL RC(MD). 959/ 2024 :

To call for the records and set aside the judgment dt. 28.06.2024 in C.A No. 137 of 2005 on the file of the learned Sessions Judge (Fast track Mahila court) Nagercoil, Kanniyakumari district confirming the conviction and sentence passed in C.C No.20 of 2003 on the file of the Learned Judicial Magistrate No.II, Tirunelveli, Tirunelveli District judgment dated 30.03.2005 and acquit the petitioner of the charges.



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Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.R.ILAYARAJA, 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:-

RESERVED ON	17.10.2024
PRONOUNCED ON	30.10.2024

The above petition has been filed seeking orders to suspend the sentence imposed on the petitioner/first accused by the learned Judicial Magistrate No.II, Tirunelveli, in C.C.No.20 of 2003, dated 30.03.2005, which was confirmed by the learned Sessions Judge (Fast Track Mahila Court), Nagercoil, Kanyakumari District in C.A.No.137 of 2005, dated 28.06.2024.

2.The case of the prosecution is that the petitioner, who was working as President of Marthandam Bee Keepers Co-operative Society, along with other accused had misappropriated the Society amount to the tune of Rs.632/- by creating fake vouchers and on that basis, FIR came to be registered in Crime No.6 of 1993.

3.After completing the investigation, charge sheet came to be filed for the offences under Sections 465, 477(A), 406 r/w 109 IPC and the case was taken on file in C.C.No.34 of 1996 on the file of the Judicial Magistrate No.II, Tirunelveli and thereafter the same was transferred to the file of the Judicial Magistrate No.II, Kuzhithurai and again the same was transferred to the file of the Judicial Magistrate



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No.II, Tirunelveli and renumbered as C.C.No.20 of 2003.

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4.During trial, the prosecution has examined 15 witnesses as P.W.1 to P.W.15 and exhibited 84 documents as Ex.P.1 to Ex.P.84. The defence has examined 1 one witness as D.W.1 and exhibited 1 document as Ex.D.1.

5.The learned Judicial Magistrate, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the judgment dated 30.03.2005 convicting the petitioner for the offences under Sections 465, 477(A) and 406 IPC and sentenced him to undergo four months rigorous imprisonment for each offence and to pay a fine of Rs.200/- for each offence, in default, to undergo two months rigorous imprisonment for each offence and that the above sentences were ordered to run concurrently.

6.Aggrieved by the said judgment of conviction and sentence, the petitioner has preferred an appeal in C.A.No.137 of 2005 and the learned Sessions Judge, Fast Track Mahila Court, Nagercoil, upon considering the evidence and on hearing the arguments on both the sides, has passed the judgment on 28.06.2024, dismissing the appeal and thereby confirming the judgment of conviction passed by the trial Court. Challenging the dismissal of the appeal, the petitioner has come forward with the present criminal revision along with the above application for suspension of sentence.

7.The learned counsel appearing for the petitioner would further submit that



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there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

8.The learned Government Advocate (Criminal Side) appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

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

10.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, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

11.Accordingly, the relief of suspension of sentence 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.II, 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 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.

sd/-
30/10/2024

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/11/2024

Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

csm

TO

1 THE SESSIONS JUDGE, (FAST TRACK MAHILA COURT), NAGERCOIL,
KANYAKUMARI DISTRICT.

2 THE JUDICIAL MAGISTRATE NO.II, TIRUNELVELI, TIRUNELVELI DISTRICT.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.

4 THE INSPECTOR OF POLICE, CCIW POLICE STATION, NAGERCOIL,
KANYAKUMARI DISTRICT.

<https://www.mhc.trn.gov.in/judis>



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

+1 CC to M/s.R.ILAYARAJA, Advocate (SR-13526[I] dated 30/10/2024)

ORDER

IN

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IN

CRL RC(MD) No.959 of 2024

Date :30/10/2024

RS/GSV/SAR-(28.11.2024) 6P 7C

Madurai Bench of Madras High Court is issuing
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