



CRL MP(MD) No.15313 of 2023

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

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

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.15313 of 2023

in

CRL A(MD)No.458 of 2023

M.HAJI ALI

AT PRESENT CONFINED IN CENTRAL PRISON,  
MADURAI AS CONVICTED PRISONER

... PETITIONER/ APPELLANT/ ACCUSED - 2

Vs

THE INSPECTOR OF POLICE  
NIB-CID, MADURAI DISTRICT.  
CRIME NO.02/2022.

... 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 by the Learned I Additional Special Court for NDPS Act Cases, Madurai, passed in CC No.237/2021 dated 30/5/2023 pending disposal of the Crl.A.

PRAYER in CRL A(MD)No.458 of 2023:

To allow the above appeal and Call for the records set aside the conviction and sentence passed by judgment dated 30.05.2023 in C.C.No.237 of 2022 of I Additional Special Court for NDPS Act Cases, Madurai and acquit the appellant herein of all the charges.



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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.JINNAH.S.M.A, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned I Additional Special Court for NDPS Act Cases, Madurai, passed in C.C.No.237/2021 dated 30.05.2023.

2. The learned counsel for the petitioner submitted that the petitioner, who is the second accused in this case, has been found guilty and convicted by the learned judge, for the offence under Section 8(c) read with 20(b)(ii)(C) and 25 of NDPS Act, ordered to undergo 10 years rigorous imprisonment and to pay a fine of Rs.1,00,000/- in default to undergo one year simple imprisonment. Set off under Section 428 Cr.P.C. was also ordered.

3. The case of the prosecution is that on 28.08.2021 at about 5 p.m., the Sub Inspector of Police attached to Sellur Police Station, conducted vehicle checkup near Melathoppu, M.G.R.Brindge. At that time, they intercepted a car bearing registration number TN 39 AQ 9090. On stopping the car, the driver of the vehicle namely the



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appellant herein escaped from the place. Another person namely Sarathkumar was available and on searching the car, it contained contraband weighing about 74 Kgs contained in 20 packets in two bags. On the basis, the case was registered and final report was also filed before the trial court after completing the investigation process.

4. Before the trial Court, on the side of the prosecution 5 witnesses have been examined, 12 documents were marked, apart from that 13 material objects were also marked. On the side of the accused none was examined and no document was marked.

5. At the conclusion of the trial, the trial Court came to the finding that the charge that was framed against the accused person were proved beyond all reasonable doubts. On that basis, the accused was found guilty and convicted and sentenced as above. Challenging the above said conviction and sentence, appeal has been preferred by the petitioner / accused. Pending appeal, earlier the petitioner has filed a petition seeking suspension of sentence.

6. Learned counsel for the petitioner would submit that the probability of the occurrence said to be taken place itself is doubtful. According to him, it is a heavy



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traffic congested area. The story of the prosecution is that the petitioner escaped from that place on stopping the vehicle, is unbelievable. No independent witness was examined, no separate sampling was taken. It is a violation under Section 52 of NDPS Act. Except the confession statement of the first accused, no other evidence is available against him. Even, the confession statement of the first accused does not implicate this petitioner.

7. Per contra, learned Additional Public Prosecutor would submit that, even in the FIR it has been stated that the accused fled away from that place, he was the driver of the vehicle. On the next date, he was secured. He is involved in similar offences apart from other IPC cases.

8. In response to the argument of the learned Additional Public Prosecutor, learned counsel for the petitioner would submit that he has not involved in any previous case in similar nature and he relied upon number of judgments to show that mere confession of the co-accused is not sufficient to rope this petitioner. He relies upon the marriage invitation card he would submit that the photographs would show that he was present in a marriage on 29.08.2021. So he would not have participated in the occurrence said to have taken place on 28.08.2021. But this document was not produced before the trial Court at the time of trial.



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9. Whatever it may be, it is a matter for arguments. Now we will see the judgment of the trial Court. As to why he has been convicted and before that the record of proceedings of this Court requires a study. The main appeal was taken up for hearing on 15.04.2024. At the request of this appellants, the matter was posted on 21.06.2024 with the following directions :

*"It is made clear that on the said date, the learned counsel for the appellant/s has to ready to commence the argument, no further adjournments will be given, otherwise, this Court will pass suitable orders based on the record."*

10. It appears that the very same application moved by the petitioner was withdrawn on 07.07.2023 before the previous Bench. Thereafter, it is seen that it was listed on 15.04.2024. This application was filed on 30.10.2024. It was pending when the above said direction was issued by the previous Bench on 15.04.2024. Without complying the said direction, the petitioner pressed this Court to hear this petition, after change of roster, which may not be proper.

11. Without going into other merits of the matter, I am of the considered view that entertaining of this petition will amount to violation of the order passed by the



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previous Bench. On that account alone, this petition is dismissed and the petitioner is directed to comply the order passed by the previous Bench of this Court dated 15.04.2024.

12. With the above direction, this Criminal Miscellaneous Petition is dismissed.

sd/-

16/10/2024

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/10/2024

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

PNN

TO

- 1 THE I ADDITIONAL SPECIAL JUDGE FOR NDPS ACT CASES,  
MADURAI.
- 2 THE INSPECTOR OF POLICE  
NIB-CID, MADURAI DISTRICT.
- 3 THE SUPERINTENDENT  
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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ORDER  
IN  
CRL MP(MD) No.15313 of 2023  
in  
CRL A(MD)No.458 of 2023  
Date :16/10/2024

SS/MMS/SAR- /28/10/2024/ 7P/5C

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