



CRL.M.P(MD).No.12790 of 2024

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

Wednesday, the Twenty Seventh day of November Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE P. VADAMALAI

CRL.M.P(MD).No.12790 of 2024

in

CRL.R.C(MD).No.1238 of 2024

K.S.ALPHONSE

... Petitioner / Petitioner

Vs

THE STATE OF TAMILNADU
REP BY THE SUB INSPECTOR OF POLICE,
C.C.I.W, POLICE STATION,
NAGERCOIL, KANYAKUMARI DISTRICT.
CRIME NO.1/99.

... 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 Enlarge the petitioner on bail by Suspending the sentence imposed upon the petitioner in C.C.No.65 of 2000 on the file of the Learned Judicial Magistrate NO.II, Tirunelveli, Tirunelveli District and by judgment dated 15.03.2006, which had been modified in Crl.A.No.84 of 2006 on the file of the learned sessions Judge, (Fast Track Mahila Court) Nagercoil, Kanyakumari District vide Judgement dated 04.10.2024 pending disposal of the main Criminal Revision Petition.



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Prayer in CRL RC(MD). 1238/ 2024 :

C-45R. To call for the records and set aside the judgment dated 04.10.2024 in C.A.No.84 of 2006 on the file of the Learned Sessions Judge, Fast Track Mahila Court, Nagercoil, Kanyakumari District modify the conviction and sentence passed in C.C.No.65 of 2000 on the file of the Learned Judicial Magistrate NO.II, Tirunelveli, Tirunelveli District judgment dated 15.03.2006 and ACQUIT the petitioner of the charges.

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.V.H.S.PRATHAP, Advocate for the petitioner and of M/s.R.M.ANBUNITH, Additional Public Prosecutor on behalf of the Respondents, while admitting the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed against the petitioner by the Judicial Magistrate No.II, Tirunelveli in C.C.No.65 of 2000, dated 15.03.2006, which was modified in Criminal Appeal No.84 of 2006, dated 04.10.2024, by the learned Sessions Judge, (Fast Track Mahila Court), Nagercoil, Kanyakumari District, pending disposal of the Criminal Revision Case in Crl.R.C.(MD)No.1238 of 2024.

2. Based on a complaint given by the de-facto complainant, a First Information Report, in Crime No.1 of 1999, came to be registered by the respondent police as against the accused for the offence under Sections 120(b), 408, 409, 467, 468, 471 and



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477(A) of IPC.

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3. The respondent, after completing the investigation, has filed the final report and the same was taken on file in C.C.No.65 of 2000 on the file of the Judicial Magistrate No.II, Tirunelveli.

4. The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court on 15.03.2006, and the trial Court sentenced him to undergo simple imprisonment for a period of 12 months and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default, to undergo simple imprisonment for a period of three months for the offence under Section 467 of IPC, and to undergo simple imprisonment for a period of 12 months and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default, to undergo simple imprisonment for a period of three months for the offence under Section 468 of IPC, and to undergo simple imprisonment for a period of 12 months and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default, to undergo simple imprisonment for a period of three months for the offence under Section 471 of IPC, and to undergo simple imprisonment for a period of 12 months and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default, to undergo simple imprisonment for a period of three months for the offence under Section 477(A) of IPC, to undergo simple imprisonment for a period of 12 months and to pay a fine of Rs.1,000/- (Rupees One



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Thousand only), in default, to undergo simple imprisonment for a period of three months for the offence under Section 408 of IPC, and the sentences were ordered to run concurrently. He was acquitted for the offence under Section 120(b) of IPC.

5. Challenging the above said conviction and sentence, the petitioner has preferred an appeal in Criminal Appeal No.84 of 2006 on the file of the learned Sessions Judge, (Fast Track Mahila Court), Nagercoil, Kanyakumari District. By a judgment, dated 04.10.2024, the learned Sessions Judge, (Fast Track Mahila Court), Nagercoil, Kanyakumari District dismissed the appeal by modifying the sentence imposed by the Judicial Magistrate No.II, Tirunelveli in C.C.No.65 of 2000 dated 15.03.2006. Accordingly, the sentences were reduced from 12 months of simple imprisonment to 6 months of simple imprisonment. Being dissatisfied with the said conviction and sentence, the petitioner has preferred the present Criminal Revision Case, along with this Criminal Miscellaneous Petition seeking suspension of sentence, before this Court.

6. It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case, and also there are contradictions in material particulars between the evidence of the prosecution witnesses. He further submitted that the fine amount, imposed on the petitioner, has been paid, and that the petitioner is the senior citizen, who is aged about 80 years.



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7. The learned Additional Public Prosecutor appearing for the respondent submitted that there are enough materials available on record against the petitioner and hence, he opposed to grant suspension of sentence.

8. This Court has carefully considered the submissions made by the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent, and has also perused the materials available on record.

9. The learned counsel for the petitioner pointed out that there are certain infirmities and inconsistencies in this case, and also there are 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 age of the petitioner, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

10. 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 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 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.

sd/-
27/11/2024

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/ 12 /2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

MKN

TO

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

2 THE JUDICIAL MAGISTRATE
NO.II, TIRUNELVELI DISTRICT.

3 DO-THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

4 THE SUB INSPECTOR OF POLICE,
C.C.I.W, POLICE STATION,
NAGERCOIL, KANYAKUMARI DISTRICT.



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

COPY TO
THE SECTION OFFICER,
VR SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL.M.P(MD).No.12790 of 2024
in
CRL.R.C(MD).No.1238 of 2024
Date :27/11/2024

PSP/ GSV /SAR /09.12.2024/ 7P/ 7C

Madurai Bench of Madras High Court is issuing certified
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