



CRL.M.P(MD).No.11947 of 2024

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

Monday, the Eleventh day of November Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL.M.P(MD).No.11947 of 2024

in

CRL.R.C(MD).No.1098 of 2024

1 SAKTHIVEL

2 MUTHUKUMAR

... Petitioners/ Revision Petitioners

Vs

THE STATE OF TAMILNADU
REP BY THE INSPECTOR OF POLICE,
ALANKULAM POLICE STATION,
TIRUNELVELI DISTRICT.
CRIME NO.143 OF 2012.

... Respondent / Revision 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 by granting bail in C.A No. 90/2022 dt. 24.10.2024 on the file of the Learned Addl District and Sessions Judge (FTC) Tenkasi district in confirming the judgment of the learned Judicial Magistrate court, Alangulam, Tirunelveli district in C.C.No.416 of 2016 dated 03/11/2022 till the disposal of the Criminal revision petition.

Prayer in CRL RC(MD). 1098/ 2024 :

C-45R. To call for the records from the lower court and duly set aside the order passed by the Learned Additional District and Sessions Judge(FTC) Tenkasi District in his C.A.No.90 of 2022 dated 24.10.2024 in confirming the Judgment of the Learned

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



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Judicial Magistrate Court, Alangulam, Tirunelveli district in C.C.No.416 of 2016 dated 03/11/2022 by allowing this revision.

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.K. PRABHU, Advocate for the petitioner and of Mr.VAIKKAM KARUNANITHI, Government Advocate (Crl. Side) 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 petitioners by the learned Judicial Magistrate, Alangulam in C.C.No.416 of 2016, dated 03.11.2022, which was confirmed in Criminal Appeal No.90 of 2022, dated 24.10.2024, by the learned Additional District and Sessions Judge (FTC), Tenkasi, pending disposal of the Criminal Revision Case in Crl.R.C. (MD)No.1098 of 2024.

2. The case of the prosecution is that on 09.04.2012 at about 08.00 a.m., while the de-facto complainant and her friends were waiting to go to school in a bus at Kidarankulam bus stop, the accused had harassed P.W.1 by singing songs. When P.W.1 had warned them, the accused/A1 had slapped her on cheeks, and when it was questioned by P.W.2, both the accused had abused P.W.2. Hence, a First Information Report came to be registered, as against the accused for the offence under Sections 294(b), 323 of IPC read with Section 4 of T.N.P.H.W. Act, by the respondent police.

3. The respondent, after completing the investigation, has filed the final report



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and the same was taken on file in C.C.No.416 of 2016 on the file of the Judicial Magistrate Court, Alangulam.

4. The learned counsel appearing for the petitioners submitted that the petitioners/A1 & A2 have been convicted by the trial Court on 03.11.2022, and the trial Court sentenced the 1st accused to undergo simple imprisonment for a period of three months and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for a period of one month for the offence under Section 323 of IPC, and also to undergo simple imprisonment for a period of one year and to pay a fine of Rs.10,000/- in default to undergo simple imprisonment for a period of 2 months for the offence under Section 4 of TNPHW Act, and the trial Court sentenced the 2nd accused to undergo simple imprisonment for a period of one year and to pay a fine of Rs.10,000/- in default to undergo simple imprisonment for a period of 2 months for the offence under Section 4 of TNPHW Act, and the sentences were ordered to run concurrently.

5. Challenging the above said conviction and sentence, the petitioners have preferred an appeal in Criminal Appeal No.90 of 2022 on the file of the learned Additional District and Sessions Judge (FTC), Tenkasi. The learned Additional District and Sessions Judge (FTC), Tenkasi by confirming the said conviction and sentence, dismissed the appeal on 24.10.2024. Being dissatisfied with the said



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conviction and sentence, the petitioners have preferred the present Criminal Revision

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Case before this Court along with this Miscellaneous Petition.

6. It is submitted by the learned counsel for the petitioners that the petitioners/A1 and A2 are in custody from 24.10.2024. He has also submitted that there are several infirmities in the prosecution case, and also there are contradictions in material particulars between the evidence of the prosecution witnesses.

7. The learned Government Advocate (Criminal Side) appearing for the respondent submitted that there are enough materials available on record against these petitioners and hence, he opposed to grant suspension of sentence.

8. This Court has carefully considered the submissions made by the learned counsel for the petitioners and the learned Government Advocate (Criminal Side) appearing for the respondent, and has also perused the materials available on record.

9. The learned counsel for the petitioners pointed out that there are certain infirmities and inconsistencies present 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 considering the period of incarceration suffered by them, this Court is of the considered view that the petitioners herein are entitled to the relief of grant of suspension of sentence.



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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 petitioners 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, Alangulam, Tirunelveli District.

(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 petitioners 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/-
11/11/2024

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11 / 11 / 2024

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

MKN



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TO

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1 THE JUDICIAL MAGISTRATE
ALANGULAM.

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

3 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE (FTC),
TENKASI,

4 THE INSPECTOR OF POLICE,
ALANKULAM POLICE STATION,
TIRUNELVELI DISTRICT.

5 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.

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

COPY TO

THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1. C.C. to K. PRABHU Advocate SR.No.13844(I) dated 11/11/2024

ORDER
IN
CRL.M.P(MD).No.11947 of 2024
in
CRL.R.C(MD).No.1098 of 2024
Date :11/11/2024



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PSP/ /SAR /11.11.2024/ 7P/ 9C

Madurai Bench of Madras High Court is issuing certified
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