



CRL MP(MD) NO. 13294 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09-12-2024

CORAM

THE HONOURABLE MR JUSTICE P.VADAMALAI

CRL MP(MD) NO. 13294 of 2024

IN

CRL RC(MD) NO. 1308 OF 2024

1.Ganesan

2.Selvam

Petitioner(s)/ A2 and A5

Vs

The State of Tamilnadu
Rep by The Inspector of Police,
Periyakulam Police Station,
Theni District.

(Crime no.12/2011.)

Respondent(s)

For Petitioner(s) : Mr.G.Karuppasamyandiyan, Advocate

For Respondent(s) : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed against the petitioners by the learned Assistant Sessions Judge,

Periyakulam in S.C.No.160 of 2015, dated 21.03.2023, which was modified in

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



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Criminal Appeal Nos.46 & 47 of 2023, dated 30.09.2024, by the learned Additional District and Sessions Judge, Periyakulam pending disposal of the Criminal Revision Case in Crl.R.C.(MD)No.1308 of 2024.

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2. Based on a complaint given by the de-facto complainant, a First Information Report, in Crime No.12 of 2011, came to be registered by the respondent police as against the accused for the offence under Sections 489(A), 489(B), 489(C) and 399 r/w 120(b) of IPC.

3. The respondent, after completing the investigation, has filed the final report and the same was taken on file in S.C.No.160 of 2015 on the file of the learned Assistant Sessions Judge, Periyakulam.

4. The learned counsel appearing for the petitioners submitted that the petitioners/A2 and A5 have been convicted by the trial Court on 21.03.2023, and the trial Court sentenced each of the accused to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.2,000/- each (Rupees Two Thousand only), in default, to undergo simple imprisonment for a period of two months each for the offence under Section 489(C) of IPC. They were acquitted by the trial Court for the offence under Sections 489(A), 489(B), 399 r/w 120(b) of IPC.

5. Challenging the above said conviction and sentence, the petitioners/A2 & A5 have preferred appeals in Criminal Appeal Nos.46 & 47 of 2023 on the file of the



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learned Additional District and Sessions Judge, Periyakulam. By a common judgment, dated 30.09.2024, the learned Additional District and Sessions Judge, Periyakulam dismissed the appeals by modifying the sentence imposed by the learned Assistant Sessions Judge, Periyakulam in S.C.No.160 of 2015 dated 21.03.2023. Accordingly, the sentences imposed on the petitioners were reduced from 7 years of rigorous imprisonment to 3 years of rigorous imprisonment. Being dissatisfied with the said conviction and sentence, the petitioners have 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 petitioners 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 also submitted that the fine amount imposed on the petitioners has been paid.

7. The learned Additional Public Prosecutor appearing for the respondent submitted that there are no previous cases as against the petitioners.

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



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9. The learned counsel for the petitioners 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, this Court is of the considered view that the petitioners herein are 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 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, Periyakulam.

(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 twice in a



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month i.e., 1st and 3rd Monday of every English calendar month at
10.30 a.m., until further orders.

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09/12/2024

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/01/2025
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

MKN

To

- 1.The Additional District and Sessions Judge,
Periyakulam.
- 2.The Assistant Sessions Judge,
Periyakulam.
- 3.The Judicial Magistrate,
Periyakulam.
- 4.Do through the Chief Judicial Magistrate,
Theni District.
- 5.The Inspector of Police,
Periyakulam Police Station,
Theni District.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.
(Call for records)

+1 CC to M/s.G.KARUPPASAMY PANDIYAN, Advocate (SR-15140[I] dated
10/12/2024)

ORDER
IN
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IN
CRL RC(MD) NO. 1308 OF 2024
Date :09/12/2024

ED/ GSV /SAR- (06/01/2025) 6P / 9C

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