



CRL MP(MD) No.12356 of 2024

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

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

PRESENT

The HONOURABLE MR. JUSTICE P. VADAMALAI

CRL.M.P(MD).No.12356 of 2024

in

CRL.R.C(MD).No.1170 of 2024

PRABU

... Revision Petitioner / Respondent

Vs

THE STATE OF TAMILNADU REP BY
THE INSPECTOR OF POLICE,
TATTAPARA POLICE STATION,
TUTICORIN,
CR NO.138/2017.

... Respondent / Petitioner

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 delivered by the Judgement passed in Crl A No.241/2024 dt.29.10.2024 by the Learned II Addl District Judge, Thoothukudi, Thoothukudi District confirming the judgment and sentence order passed in CC No.258/2019 dt.28.11.2023 on the file of the Chief Judicial Magistrate, Thoothukudi, Thoothukudi district and enlarged Petitioner on Bail.

Prayer in CRL RC(MD). 1170/ 2024 :

To Set aside the Judgment passed in Crl A No.241/2024 dt.29.10.2024 by the learned II Addl District Judge, Thoothukudi, Thoothukudi District, confirming the Judgement and Sentence Order passed in CC No.258/2019 dt.28.11.2023 on the file of the Chief Judicial Magistrate, Thoothukudi, Thoothukudi district.



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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.KA.RAAMAKRISHNAN, Advocate for the petitioner and of M/s.R.M.ANBUNITHI, 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 Chief Judicial Magistrate, Thoothukudi in C.C.No.258 of 2019, dated 28.11.2023, which was confirmed in Criminal Appeal No.241 of 2023, dated 29.10.2024, by the learned II Additional District and Sessions Judge, Thoothukudi, pending disposal of the Criminal Revision Case in CrI.R.C.(MD) No.1170 of 2024.

2. Based on a complaint given by the de-facto complainant, a First Information Report, in Crime No.138 of 2017, came to be registered by the respondent police as against the accused for the offence under Sections 279, 337, 338 and 304(A) of IPC.

3. The respondent, after completing the investigation, has filed the final report and the same was taken on file in C.C.No.258 of 2019 on the file of the Chief Judicial Magistrate, Thoothukudi.

4. The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court on 28.11.2023, and the trial Court sentenced him to undergo simple imprisonment for a period of two months and to pay a fine of Rs.500/- (Rupees Five Hundred only), in default, to undergo simple imprisonment



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for a period of one week for the offence under Section 279 of IPC, and to undergo simple imprisonment for a period of six months and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default, to undergo simple imprisonment for a period of two weeks for the offence under Section 338 of IPC, and to undergo simple imprisonment for a period of one year and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only), in default, to undergo simple imprisonment for a period of one month for the offence under Section 304(A) of IPC, and since the offences committed by the accused under Sections 337 and 338 of IPC are as against one and the same person, and has been convicted and sentenced for the offence under Section 338 of IPC, no separate sentence has been imposed for the offence under Section 337 of IPC, and the sentences were ordered to run concurrently.

5. Challenging the above said conviction and sentence, the petitioner has preferred an appeal in Criminal Appeal No.241 of 2023 on the file of the learned II Additional District and Sessions Judge, Thoothukudi. The learned II Additional District and Sessions Judge, Thoothukudi by confirming the said conviction and sentence, dismissed the appeal on 29.10.2024. Being dissatisfied with the said conviction and sentence, the petitioner has preferred the present Criminal Revision Case before this Court along with this Miscellaneous Petition seeking suspension of sentence.



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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.

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, 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



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Five Thousand only) with two sureties, each for a like sum to the satisfaction of the

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Chief Judicial Magistrate, Thoothukudi.

(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/-
25/11/2024

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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 II ADDL DISTRICT JUDGE,
THOOTHUKUDI,
THOOTHUKUDI DISTRICT

2. THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI,
THOOTHUKUDI DISTRICT

3 THE INSPECTOR OF POLICE,
TATTAPARA POLICE STATION, TUTICORIN,



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

COPY TO

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

ORDER
IN
CRL.M.P(MD).No.12356 of 2024
in
CRL.R.C(MD).No.1170 of 2024
Date :25/11/2024

PSP/ VR /SAR /02.12.2024/ 6P/ 6C

Madurai Bench of Madras High Court is issuing certified
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