



CRL MP(MD) No.12903 of 2024

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

Friday, the Twenty Ninth day of November Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE P. VADAMALAI

CRL.M.P(MD).No.12903 of 2024
in
CRL.R.C(MD).No.1251 of 2024

KAVIKUMAR

... PETITIONER/PETITIONER

Vs

THE INSPECTOR OF POLICE,
ABIRAMAM POLICE STATION,
RAMANATHAPURAM DISTRICT.
(*)CRIME NO. 79 of 2018.

... 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 Suspend the conviction and sentence imposed upon petitioner vide judgment dated 09.02.2024 made in Criminal Appeal No.54 of 2023, on the file of the Principal Sessions Judge, Ramanathapuram whereby confirmed the judgment of conviction dated 11.09.2023 made in C.C.No.123 of 2018, on the file of the District Munsif Cum Judicial Magistrate, Kamuthi and enlarge the petitioner on bail pending disposal of the Criminal Revision Case in the interest of justice and thereby render justice.

Prayer in CRL RC(MD). 1251/ 2024 :

To call for the records and set aside the Judgment dated 09.02.2024 made in Criminal Appeal No.54 of 2023 on the file of the Principal Sessions Judge, Ramanathapuram whereby confirmed by judgment of conviction dated 11.09.2023

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made in C.C.No.123 of 2018, on the file of the District Munsif Cum Judicial Magistrate, Kamuthi.

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 Mr.G.VISHNURAM, Advocate for the petitioner and of Mr.M.VAIKKAM KARUNANITHI, Government Advocate on behalf of the Respondent, While admitting the Criminal Revision Case, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed against the petitioner by the District Munsif cum Judicial Magistrate, Kamuthi in C.C.No.123 of 2018, dated 11.09.2023, which was confirmed in Criminal Appeal No.54 of 2023, dated 09.02.2024, by the learned Principal Sessions Judge, Ramanathapuram, pending disposal of the Criminal Revision Case in CrI.R.C.(MD) No.1251 of 2024.

2. Based on a complaint given by the de-facto complainant, a First Information Report, in Crime No.79 of 2018, came to be registered by the respondent police as against the accused for the offence under Section 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.123 of 2018 on the file of the District Munsif cum Judicial Magistrate, Kamuthi.

4. The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court on 11.09.2023, and the trial Court sentenced him to undergo imprisonment for a period of one year and to pay a fine of Rs.2,000/-



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(Rupees Two Thousand only), in default, to undergo simple imprisonment for a period of three months for the offence under Section 304(A) of IPC.

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5. Challenging the above said conviction and sentence, the petitioner has preferred an appeal in Criminal Appeal No.54 of 2023 on the file of the learned Principal Sessions Judge, Ramanathapuram. The learned Principal Sessions Judge, Ramanathapuram by confirming the said conviction and sentence, dismissed the appeal on 09.02.2024. 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 the petitioner is in custody from 20.11.2024. He 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 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 Government Advocate (Criminal Side) appearing for the respondent, and has also perused the materials available on record.



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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 period of incarceration suffered by 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 District Munsif cum Judicial Magistrate, Kamuthi.

(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



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at 10.30 a.m., until further orders.

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sd/-
29/11/2024

(*)AMENDED AS PER ORDER OF THE COURT DATED 10/12/2024 in CRL MP (MD)No.13538 of 2024 in CRL RC(MD).1251 of 2024.

/ TRUE COPY /

11/12/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

MKN
TO

TO BE SUBSTITUTED WITH THE ORDER DATED 29/11/2024 ALREADY DESPATCHED.

1 THE PRINCIPAL SESSIONS JUDGE
RAMANATHAPURAM.

2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
KAMUTHI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.

4 THE OFFICER INCHARGE,
RAMNAD SUB JAIL, RAMANATHAPURAM DISTRICT.

5 THE INSPECTOR OF POLICE,
ABIRAMAM POLICE STATION,
RAMANATHAPURAM DISTRICT.

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

+1 CC to M/s.G.VISHNURAM, Advocate (SR-15185[I] dated 10/12/2024)
<https://www.mhc.tn.gov.in/judis>



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ORDER
IN
CRL.M.P(MD).No.12903 of 2024
in
CRL.R.C(MD).No.1251 of 2024
Date :29/11/2024

SA/SAR. /29.11.2024/6P/8C

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SS/GSV/SAR- /11/12/2024/ 6P/8C

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