



CRL.M.P(MD).No.12698 of 2024

WEB COPY

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

Tuesday, the Twenty Sixth day of November Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE P. VADAMALAI

CRL.M.P(MD).No.12698 of 2024

in

CRL.R.C(MD).No.1218 of 2024

RAMU

... Petitioner

Vs

THE STATE OF TAMILNADU
REP BY THE SUB INSPECTOR OF POLICE,
VADASERI POLICE STATION,
KANYAKUMARI DISTRICT.
CRIME NO.245 OF 2019.

... 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 made in C.C.No.38/2021 dt.11.11.2022 on the file of the Judicial Magistrate No.II. Nagercoil and as modified by Judgment dated 28.10.2024 made in CA.No.71/2022 on the file of the Additional Sessions Judge (Fast Track), Nagercoil pending disposal of the above Criminal Revision.

Prayer in CRL RC(MD). 1218/ 2024 :

To call for the records relating to the Judgment dated 11.11.2022 made in C.c.No.38/2021 on the file of the Judicial Magistrate No.II. Nagercoil and as modified by Judgment dated 28.10.2024 made in CA.No.71/2022 on the file of the Additional Sessions Judge (Fast Track), Nagercoil, and set aside the same.

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

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



CRL.M.P(MD).No.12698 of 2024

M/s.R.RUSSEL RAJ, Advocate for the petitioner and of M/s.R.M.ANBUNITHI, Additional Public Prosecutor on behalf of the Respondent, while admitting the Court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed against the petitioner/A2 by the Judicial Magistrate No.II, Nagercoil in C.C.No.38 of 2021, dated 11.11.2022, which was modified in Criminal Appeal No.71 of 2022, dated 28.10.2024, by the learned Additional Sessions Judge (Fast Track), Nagercoil, pending disposal of the Criminal Revision Case in Crl.R.C.(MD)No.1218 of 2024.

2. Based on a complaint given by the de-facto complainant, a First Information Report, in Crime No.245 of 2019, came to be registered by the respondent police as against the accused for the offence under Sections 294(b), 323, 324 and 506(ii) 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.38 of 2021 on the file of the Judicial Magistrate No.II, Nagercoil.

4. The learned counsel appearing for the petitioner submitted that the petitioner/A2 has been convicted by the trial Court on 11.11.2022, and the trial Court sentenced him to undergo simple imprisonment for a period of one year and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default, to undergo simple imprisonment for a period of one month for the offence under Section 324 of IPC, and



CRL.M.P(MD).No.12698 of 2024

the sentences were ordered to run concurrently, and he was acquitted by the trial Court for the offence under Sections 294(b) and 506(2) of IPC.

5. Challenging the above said conviction and sentence, the petitioner has preferred an appeal in Criminal Appeal No.71 of 2022 on the file of the learned Additional Sessions Judge (Fast Track), Nagercoil. By a judgment, dated 28.10.2024, the learned Additional Sessions Judge (Fast Track), Nagercoil partly allowed the appeal by modifying the conviction and sentence imposed by the Judicial Magistrate No.II, Nagercoil in C.C.No.38 of 2021 dated 11.11.2022. Accordingly, the accused was sentenced 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 one month for the offence under Section 324 of IPC. 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.

7. The learned Additional Public Prosecutor appearing for the respondent submitted that there are enough materials available on record against the petitioner



CRL.M.P(MD).No.12698 of 2024

and hence, he opposed to grant suspension of sentence.

WEB COPY

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.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate No.II, Nagercoil.

(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



CRL.M.P(MD).No.12698 of 2024

WEB COPY

(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/-
26/11/2024

/ TRUE COPY /

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

MKN

TO

1 THE JUDICIAL MAGISTRATE NO.II,
NAGERCOIL

2 DO-THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
KANNIYAKUMARI DISTRICT AT NAGERCOIL.

3 THE ADDITIONAL SESSIONS JUDGE (FAST TRACK),
NAGERCOIL,

4 THE SUB INSPECTOR OF POLICE,
VADASERI POLICE STATION,
KANNIYAKUMARI DISTRICT.

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



CRL.M.P(MD).No.12698 of 2024

WLB COPY
COPY TO

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

+1. C.C. to R.RUSSEL RAJ Advocate SR.No.14570(I) dated 27/11/2024

ORDER
IN
CRL.M.P(MD).No.12698 of 2024
in
CRL.R.C(MD).No.1218 of 2024
Date :26/11/2024

PSP/ VR /SAR /03.12.2024/ 6P/ 8C

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