



CRL MP(MD) No.12913 of 2024

WEB COPY 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 K.K. RAMAKRISHNAN

CRL MP(MD) No.12913 of 2024

in

CRL A(MD) No.1040 of 2024

KALIDOSS

... Petitioner / Appellant

Vs

THE INSPECTOR OF POLICE,
ANDIPATTI POLICE STATION,
THENI DISTRICT.

(CRIME NO. 378 OF 2017.)

... 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 sentence imposed on the petitioner in S.C.No.153 of 2017 on the file of the learned Sessions Judge, Mahalir Neethimandram, Fast Track, Mahila Court, Theni District dated 29.10.2024.

Prayer in CRL A(MD) No.1040 of 2024:

To call for the records and set aside the judgment of conviction passed S.C.No.153 of 2017 dated 29.10.2024 by the learned Sessions Judge, Mahalir Needhimandram, Fast Track, Mahila Court, Theni and allow this criminal appeal.



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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.G.THALAIMUTHURASU, Advocate for the petitioner and of Mr.M.SAKTHI KUMAR, Government Advocate (Crl. side) on behalf of the Respondent, while admitting the criminal appeal, the Court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in S.C.No.153 of 2017, dated 29.10.2024, by the Learned Sessions Judge, Mahalir Needhimandram, Fast Track Mahila Court, Theni District.

2.The case of the prosecution is that the defacto complainant is residing at Andipatti and doing contractor work and having tipper lorry and the accused is residing at Ayyanarpuram and practising as an advocate. L.W.5 namely Vairamani, met the accused regarding the land issue and both the L.W.5 and the accused had relationship and lived together for 5 years and at present both of them got separated due to misunderstanding and L.W.5 left the accused and lived at Andipatti for rent. On 27.05.2017, accused came to L.W.5's house and asked her the reason for not living with him and entered into altercation, at that time, the defacto complainant and his friends were shouted at the accused and asked him to come in the morning and sent him. On 28.05.2017, at 01.45 a.m., the defacto complainant picked up his friends and driver in his car to drop them in their house and when they went in front of the occurrence place ie., Aiswarya Mobile Store, which is situated near MGR



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statue at Andipatti, they have seen that the accused argued with L.W.5. At that time, the defacto complainant and his friend namely Venkatesh and the driver, namely, Pandi asked the accused to leave now, due to which, the accused said to have abused them in filthy language and also attacked them with the knife. Thereby, they sustained blood injuries on them. Hence, the respondent Police registered a case in Crime No.378 of 2017 for the offence under Sections 294(b) and 307 of IPC and 4 of TNPHW, Act, 2002.

3.The respondent police, after completing the investigation, has laid a final report and the same was taken on file in P.R.C.No.21 of 2017 for the offence under Sections 294(b) and 307 of IPC and Section 4 of TNPHW Act, 2002, against the accused. Thereafter, the case was committed to the learned Principal District and Sessions Judge, Theni. The same was taken on file in S.C.No.153 of 2017, by the learned Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Theni, for the offence under Sections 294(b), 324(3 counts), 307(3 counts) of IPC and 4 of TNPHW Act, 2002.

4.During the trial, on the side of the prosecution, 11 witnesses were examined as P.W.1 to P.W.11 and 15 documents were marked as Ex.P.1 to Ex.P.15 and marked M.O.1 to M.O.5. On the side of the accused, neither a witness was examined nor a document was exhibited.



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5.The learned Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, has passed the impugned judgment dated 29.10.2024 acquitting the petitioner/accused for the offence under Sections 294(b) and 307(3 counts) of IPC and 4 of TNPWH Act, 2002 and convicting the petitioner/accused for the offence under Section 324(3 counts) of IPC and sentenced him to undergo 2 years Rigorous Imprisonment for each count and to pay a fine of Rs.2,000/- for each count in default to undergo 6 months simple imprisonment for each count and further directing the sentences to run concurrently. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

6.The learned counsel for the petitioner submitted that there are several infirmities in the prosecution case. He further submitted that the trial Court already suspended the sentence and fine amount already paid. Hence, he seeks suspension of sentence.

7.The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that there are enough materials available on record against the petitioner and hence, he strongly opposed this petition.

8.This Court considered the rival submission made by the learned counsel



appearing on either side and perused the materials available on record.

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9.Considering the facts and circumstances of the case and also considering the fact that the sentence imposed on the petitioner was suspended by the trial Court and he already paid fine amount and there are some arguable points involved in the criminal appeal, the petitioner is entitled to the relief of grant of suspension of sentence.

10.Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(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 Learned Sessions Judge, Mahalir Needhimandram, Fast Track Mahila Court, Theni District;

(ii)The sureties shall affix his photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of his Aadhar card or Bank Pass Book to ensure their identity; and



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(iii) The petitioner shall appear before the trial Court
daily at 10.30 a.m., till the disposal of the appeal.

sd/-
29/11/2024

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

VSG

To

1.The Sessions Judge,
Mahalir Needhimandram,
Fast Track Mahila Court,
Theni District.

2.The Inspector of Police,
Andipatti Police Station,
Theni District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:

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



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ORDER

IN

CRL MP(MD) No.12913 of 2024

in

CRL A(MD) No.1040 of 2024

Date :29/11/2024

ED/ GSV /SAR- (03/12/2024) 7P / 5C

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