



CRL.M.P.(MD)No.13571 of 2024

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

Thursday, the Twelfth day of December Two Thousand and Twenty Four

PRESENT
The HONOURABLE MR. JUSTICE K.K. RAMAKRISHNAN

CRL.M.P.(MD)No.13571 of 2024
in
CRL.A.(MD)No.490 of 2024

RAJA

... APPELLANT/SOLE ACCUSED

Vs

THE STATE OF TAMILNADU
REP BY THE INSPECTOR OF POLICE,
UVARI POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.22/2021).

... RESPONDENT/COMPLAINANT

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 passed by the Learned Assistant Judge, Valliyoor, Tirunelveli District in S.C.No.472/2023 through a Judgment dated 02.04.2024 and enlarge the petitioner on bail .

Prayer in CRL A(MD) No.490 of 2024 :

To admit this Appeal on file and call for records from the Trial Court namely Learned Assistant Sessions Judge, Valliyur, Tirunelveli District in S.C.No.472/2023 and to set-aside the Judgment dated 02.04.2024 and Acquit the above Accused from the above charges.

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.KA.RAAMAKRISHNAN, Advocate for the petitioner and of MR.M.SAKTHI KUMAR, Government Advocate(Crl.side) on behalf of the Respondent, the court made the following order:-



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This petition is filed to suspend the sentence imposed on the petitioner by the learned Assistant Judge, Valliyoor, Tirunelveli District, in S.C.No.472 of 2023 dated 02.04.2024 and enlarge the petitioner on bail pending disposal of the main Criminal Appeal.

2. The case of the prosecution is that P.W.1, namely, Gnanaraj is the driver cum owner of the auto bearing Registration No.TN 72 AT 6572. P.W.2 is the Special Sub Inspector. On 24.01.2021, at about 04.00 p.m., P.W.2 said to have taken the accused, namely, Kootappan and Raja in connected with Crime No.21 of 2021, for the offences punishable under Sections 294(b), 307 and 506(ii) of IPC and Section 4 of TNPHW Act, from Thisayanvillai Sithambaram Hospital to Uvari Police Station, in P.W.1's auto. At that time, near water company of STR Selvakumar, the accused namely Raja said to have strangled P.W.1 by using his both hands and stating that “வண்டியை நிப்பாட்டுல ஸ்டேசனுக்கா வண்டியை கொண்டு போகிறாய் நீ உயிரோடு இருந்தால் தானே ஸ்டேசனுக்கு போவ இத்தோடு நீ செத்து தொலை என்று” At that time, the auto overturned right side and dragged distance of 10 feet, due to which, the front glass and right side glass worth about Rs.20,000/- were broken and the petitioner herein has prevented P.W.2 to discharge his duty. Further, the petitioner said to have threatened



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P.W.2 and others with dire consequences. In the said circumstances, the respondent Police registered a case in Crime No.22 of 2021 for the offence under Sections 294(b), 307, 427, 353 and 506(ii) of IPC.

3.The respondent police, after completing the investigation, has laid a final report and the same was taken on file in S.C.No.472 of 2023 on the file of the learned Assistant Judge, Valliyoor, Tirunelveli District.

4.During the trial, on the side of the prosecution, 8 witnesses were examined as P.W.1 to P.W.8 and 8 documents were marked as Ex.P.1 to Ex.P.8 and one Material Object was marked as M.O.1. On the side of the accused, neither a document was produced nor a witness was examined.

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 02.04.2024 convicting the petitioner/accused for the offence under Sections 294(b), 307, 427, 353 and 506(ii) of IPC, and sentenced him to undergo two months Simple Imprisonment for the offence under Section 294(b) of IPC and sentenced him to undergo 7 years Simple Imprisonment and to pay a fine of Rs.50/- in default to

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undergo three months simple imprisonment, for the offence under Section 307 of IPC and sentenced him to undergo two months Simple Imprisonment for the offence under Section 427 of IPC and sentenced him to undergo six months Simple Imprisonment for the offence under Section 353 of IPC and sentenced him to undergo two years simple imprisonment and to pay a fine of Rs.50/- in default to undergo three months simple Imprisonment for the offence under Section 506(ii) of IPC and sentenced him to undergo two months simple imprisonment for the offence under Section 323 of IPC. 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 would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner has already paid fine amount. He further stated that the petitioner was confined in Central Jail, Palayamkottai, Tirunelveli District, from 03.04.2024. Hence, he seeks suspension of sentence.

7.The learned Additional Public Prosecutor appearing for the respondent Police

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would contend that the learned trial Court has rightly convicted the petitioner on the basis of the evidence and the petitioner has no prima facie case in this appeal and hence, he strongly opposed to grant suspension of sentence.

8.This Court has carefully considered the submissions made by the learned counsel appearing on either side and also perused the materials available on record.

9.Considering the facts and circumstances of the case and also considering the period of incarceration and there are some arguable points involved in the criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future, 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 Assistant Judge, Valliyoor, Tirunelveli District;



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(ii) The sureties shall affix their 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 his identity; and

(iii) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
12/12/2024

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13/12/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

sbn

TO

1 THE ASSISTANT JUDGE, VALLIYOOR, TIRUNELVELI DISTRICT;

2 THE INSPECTOR OF POLICE, UVARI POLICE STATION,
TIRUNELVELI DISTRICT.

3. THE SUPERINTENDENT, CENTRAL JAIL, PALAYAMKOTTAI
TIRUNELVELI.

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



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ORDER
IN
CRL.M.P.(MD)No.13571 of 2024
in
CRL.A.(MD)No.490 of 2024
Date :12/12/2024

RK (13/12/2024) 7P / 6C

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