



CRL MP(MD) No.17717 of 2023

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

Tuesday, the Ninth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.17717 of 2023

IN

CRL RC(MD) No.1403 of 2023

A.SELVAPETCHIYAPPAN

... PETITIONER/PETITIONER

Vs

**THE INSPECTOR OF POLICE
VEMBAKOTTAI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CRIME NO.164/2014.**

... 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 by granting bail in the order passed by Honble Additional District and Sessions Judge, Srivilliputhur in his CA.No.17/2020 dt.20/9/2023 in confirming the judgment of the Judicial Magistrate II, Sattur in CC No.7/2015 dt.23/1/2020 till the disposal of the criminal revision.

Prayer in CRL RC(MD). 1403/ 2023 :

To admit this revision petition on file, call for the records from the lower court and duly set aside the order passed by the Honble Additional District and Sessions Judge, Srivilliputhur in his CA.No.17/2020 dt.20/9/2023 in confirming the Judgment of the Judicial Magistrate II, Sattur in CC No.7/2015 dt.23/1/2020 by allowing this revision.



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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 MR.N.MARIAPPAN, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate (Criminal Side) on behalf of the Respondent, the court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence passed against him by the learned Additional District and Sessions Judge, Srivilliputtur, in Crl.A.No.17 of 2020 dated 20.09.2023 and to enlarge him on bail, pending disposal of the Criminal Revision Case.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner in Crime No.164 of 2014, on the file of the respondent/Inspector of Police, Vembakottai Police Station, Virudhunagar District, for the offences punishable under Sections 392 of IPC and the same was taken on file in C.C.No.7 of 2015 before the learned Judicial Magistrate No.II, Sattur. The petitioner was convicted and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.10,000/- with six months simple imprisonment in case of default. Challenging the above said conviction and sentence, the petitioner has preferred the Criminal Appeal before the learned Additional District and Sessions Judge, Srivilliputhur in Crl.A.No.17 of 2020 and the same was also dismissed on 02.09.2023.

Challenging the concurrent findings of the Courts below, the petitioner has preferred



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the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner would submit that there are several infirmities in the prosecution case and moreover, there are contradictions in the evidences of the prosecution witnesses and the test identification parade is also doubtful for the reasons that P.W.1 in her cross examination clearly deposed that after two months of occurrence, she saw the accused person in the respondent police station and hence, the identification parade is highly doubtful. Therefore, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned counsel for the petitioner further submitted that the accused surrendered on 02.01.2024 and remanded to judicial custody and now, he is in Central Prison, Madurai.

5. Per contra, Mr.R.Sivakumar, learned Government Advocate (Crl. side) submitted that the petitioner has three previous cases and both the Courts below have found him guilty and prayed for dismissal of this petition.



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6. Heard the learned counsel on either side and perused the materials available on record.

7. Considering the arguable points of the petitioner and the facts and circumstances of the case, this Court is of the prima facie view that the sentence imposed on the petitioner has to be suspended pending this Criminal Revision Case.

8. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Additional District and Sessions Judge, Srivilliputtur, in C.A.No.17 of 2020 dated 20.09.2023 alone is suspended subject to 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 Additional District and Sessions Judge, Srivilliputtur.

ii) The petitioner shall appear and sign before the learned Additional District and Sessions Judge, Srivilliputtur, on the first working day of every English calender month at 10.30 a.m., until further orders.

iii) In case, if the petitioner is unable to appear before the Court on the first working day of a month, he shall appear on the next working day.



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iv) The petitioner shall furnish his residential address and mobile number to the Trial Court ie., learned Additional District and Sessions Judge, Srivilliputtur.

9. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed.

sd/-
09/01/2023

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11/01/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM
TO

- 1 THE JUDICIAL MAGISTRATE NO.II
SATTUR.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.
- 3 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE, SRIVILLIPUTHUR.
- 4 THE INSPECTOR OF POLICE
VEMBAKOTTAI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 5 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.



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

+1 CC to M/s.N.MARIAPPAN, Advocate (SR-455[I] dated 10/01/2024)

ORDER
IN
CRL MP(MD) No.17717 of 2023
IN
CRL RC(MD) No.1403 of 2023
Date :09/01/2024

PKP/SAR- /11.01.2024/ 6P/ 8C
Madurai Bench of Madras High Court is issuing certified
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