



CRL MP(MD) No.13631 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16-12-2024

CORAM

THE HONOURABLE MR JUSTICE P.VADAMALAI

CRL MP(MD) NO. 13631 of 2024

IN

CRL RC(MD) NO. 1338 OF 2024

G.Kumaresan

S/o. Gnana Thampi, Chemmanthara Vilai,
Kadamacode, Pacode Post, Kanyakumari District.

Petitioner(s)

Vs

The State of Tamilnadu

Rep. by The Sub Inspector of Police,
Kdayalumoodu Police Station, Kanniyakumari District.
Crime No. 124/2007.

Respondent(s)

For Petitioner(s):

M/s. Sivakumar.S, Advocate

For Respondent(s):

Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed against the petitioner by the learned Judicial Magistrate No.1, Kuzhithurai in C.C.No.40 of 2008, dated 02.11.2017, which was confirmed in Criminal Appeal



CRL MP(MD) No.13631 of 2024

No.169 of 2017, dated 22.11.2024, by the learned Additional District Sessions Judge, Kuzhithurai pending disposal of the Criminal Revision Case in CrI.R.C.(MD)No.1338 of 2024.

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2. Based on a complaint given by the de-facto complainant, a First Information Report, in Crime No.124 of 2007, 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.40 of 2008 on the file of the learned Judicial Magistrate No.1, Kuzhithurai.

4. The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court on 02.11.2017, and the trial Court sentenced the accused to undergo simple imprisonment for a period of one year and to pay a fine of Rs.5,000/- (Rupees Five Thousand only), in default, to undergo simple imprisonment for a period of three months for the offence under Section 304(A) of IPC.

5. Challenging the above said conviction and sentence, the petitioner has preferred appeal in Criminal Appeal No.169 of 2017 on the file of the learned Additional District Sessions Judge, Kuzhithurai. By a judgment, dated 22.11.2024, the learned Additional District Sessions Judge, Kuzhithurai dismissed the appeal by confirming the conviction and sentence imposed by the learned Judicial Magistrate



CRL MP(MD) No.13631 of 2024

No.1, Kuzhithurai in C.C.No.40 of 2008 dated 02.11.2017. 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 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 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.



CRL MP(MD) No.13631 of 2024

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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 learned Judicial Magistrate No.1, Kuzhithurai.

(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 first working day of every English calendar month at 10.30 a.m., until further orders.

sd/-
16/12/2024

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/ 01 / 2025
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.1,
KUZHITHURAI



CRL MP(MD) No.13631 of 2024

2. DO-THROUGH

THE CHIEF JUDICIAL MAGISTRATE,
KANNIYAKUMARI DISTRICT AT NAGERCOIL.

3. THE ADDITIONAL DISTRICT SESSIONS JUDGE,
KUZHITHURAI

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

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

COPY TO

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

+1 CC to M/s.S.SIVAKUMAR, Advocate (SR-15465[I] dated 16/12/2024)

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IN
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Date :16/12/2024

PSP/ VR /SAR /06.01.2025/ 5P/ 8C

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