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Crl.M.P.Nos.13558 & 13560 of 2024 in Crl.R.C.No.1637 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.Nos.13558 & 13560 of 2024
in Crl.R.C.No.1637 of 2024

1. Vellaiyan @ Sakthi
2. Saravanan

... Petitioners/A1 & A2

Vs.

The State

Rep. by the Inspector of Police,
Mallasamuthiram Police Station,
Namakkal District.

(Crime No.78 of 2014)

... Respondent

PRAYER in Crl.M.P.No.13558 of 2024: Criminal Miscellaneous Petition filed under Section 430 (1) of BNSS (Section 389(1) of Cr.P.C.), to suspend the sentence imposed in Crl.A.No.120 of 2023 dated 25.06.2024 on the file of the learned II Additional District and Sessions Judge, Tiruchengode, in confirming the Judgment dated 10.07.2023 passed in C.C.No.16 of 2015 by the learned Judicial Magistrate, Tiruchengode till the disposal of above Criminal Revision.

PRAYER in Crl.M.P.No.13560 of 2024: Criminal Miscellaneous Petition filed under Section 528 of BNSS (Section 482 of Cr.P.C.) to exempt the petitioner from surrendering pursuant to the order of



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conviction passed in C.C.No.16 of 2015 dated 10.07.2023 on the file of the learned Judicial Magistrate, Tiruchengode, which was confirmed in Crl.A.No.120 of 2023 dated 25.06.2024 on the file of the II Additional District and Sessions Judge, Tiruchengode, pending disposal of the present Criminal Revision Petition.

For Petitioners : Mr.C.S.Saravanan
For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

COMMON ORDER

These Criminal Miscellaneous Petitions have been filed seeking to suspend the sentence imposed on the petitioners/A1 & A2 by judgment dated 10.07.2023 passed in C.C.No.16 of 2015 by the learned Judicial Magistrate, Tiruchengode and confirmed by the learned II Additional District and Sessions Judge, Tiruchengode vide Judgment dated 25.06.2024 in Crl.A.No.120 of 2023 and enlarge the petitioners on bail and to exempt them from surrendering before the trial Court, pending disposal of the above revision.

2. It is the case of the prosecution that on 15.04.2014 at about 1.00 p.m., the petitioners jumped over the compound wall of the house of the



defacto complainant and by breaking open the grill gate entered into the pooja room and had taken away 60 sovereigns of gold jewels from the cup board of the defacto complainant.

3. The petitioners were convicted by the trial Court for the offences under Sections 454 and 380 of the IPC and sentenced as follows:

Offence under Section	Sentence imposed
454 IPC	Each of them to undergo SI for three years and to pay a fine of Rs.5,000/-, in default to undergo SI for six months
380 IPC	Each of them to undergo SI for three years and to pay a fine of Rs.5,000/-, in default to undergo SI for six months
The sentences were directed to run concurrently.	

On appeal, the said conviction and sentence was confirmed by the lower Appellate Court. Hence, the revision and pending revision, the petitioners seek suspension of sentence and exemption from surrendering.

4. The learned counsel for the petitioners would submit that the prosecution had not established the case beyond reasonable doubt; that the seizure is doubtful; that there are several arguable points, which require consideration in the revision; that pursuant to the judgment of the appellate Court, the petitioners were arrested on 14.10.2024; and



therefore, he prayed for grant of suspension of sentence.

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5. Heard the learned Government Advocate (Crl.Side), who on instructions would submit that pursuant to the arrest of the petitioners, the stolen articles were seized and handed over to the defacto complainant; that the prosecution has established its case beyond reasonable doubt; and that there is no reason to interfere with the judgments of the Courts below and prayed for dismissal of the petitions.

6. As stated above, pursuant to the judgment of the appellate Court, the petitioners were arrested on 14.10.2024. Hence, Crl.M.P.No.13560 of 2023, filed by the petitioners seeking exemption from surrendering before the trial Court, has become infructuous and the same is dismissed.

7. Further, considering the fact that the petitioners have raised substantial grounds in this revision, which require consideration; that the revision is not likely to be taken up in the near future; and also the fact that the petitioners are in custody from 14.10.2024, this Court is inclined to suspend the sentence imposed on the petitioners/A1 & A2 and release



them on bail.

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8. Accordingly, Crl.M.P.No.13558 of 2024 stands **allowed**. The sentence of imprisonment imposed on the petitioners/A1 & A2, is suspended and they are ordered to be released on bail, on the following conditions till the disposal of the above Criminal Revision:

- (i) Each of the petitioners shall execute a bond for a sum of Rs.10,000/- with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Tiruchengode;
- (ii) The petitioners and 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 and mobile numbers to ensure their identity; and
- (iii) The petitioners shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the revision and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the trial Court.

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To

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SUNDER MOHAN, J.

ars

1. The II Additional District and Sessions Judge,
Tiruchengode.
2. The Judicial Magistrate,
Tiruchengode.
3. The Inspector of Police,
Mallasamuthiram Police Station,
Namakkal District.
4. The Superintendent of Prisons,
Central Prison, Salem.
5. The Public Prosecutor,
High Court, Madras.

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