



CRL MP(MD) NO. 633 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28-01-2025

CORAM
THE HONOURABLE MR JUSTICE P.VADAMALAI

CRL MP(MD) NO. 633 of 2025
IN
CRL RC(MD) NO. 996 of 2024

Sethupathy
S/o Boominathan, Agraharam Street,
Nainar Kovil, Paramakudi Taluk, Ramanathapuram District.
...Petitioners

Vs

The State of Tamil Nadu
Rep by The Inspector of Police,
Nainar Kovil Police station, Paramakudi Taluk,
Ramanathapuram District.
Crime No. 111/2017.

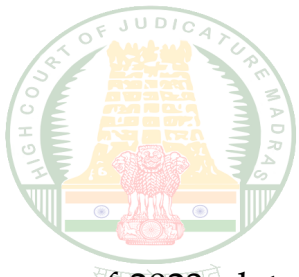
...Respondent

For Petitioner:
Mr.M.S.Jeyakarthik, Advocate

For Respondent:
Mr.M.Vaikkam Karunanithi
Government Advocate (Criminal Side)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed against the petitioner by the learned Judicial Magistrate, Paramakudi in C.C.No.11 of 2018, dated 20.01.2023, which was confirmed in Criminal Appeal No.35



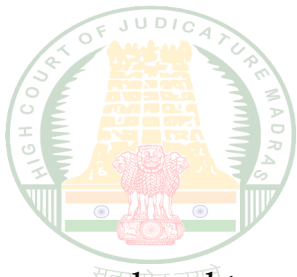
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of 2023, dated 08.12.2023, by the learned Principal Sessions Judge, Ramanathapuram
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pending disposal of the Criminal Revision Case in Crl.R.C.(MD)No.996 of 2024.

2. Based on a complaint given by the de-facto complainant, a First Information Report, in Crime No.111 of 2017, came to be registered by the respondent police as against the accused for the offence under Sections 457 and 380 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.11 of 2018 on the file of the learned Judicial Magistrate, Paramakudi.

4. The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court on 20.01.2023, and the trial Court sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default, to undergo simple imprisonment for a period of three months for the offence under Section 457 of IPC, and to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2,000/- (Rupees Two Thousand only), in default, to undergo simple imprisonment for a period of six months for the offence under Section 380 of IPC, and the sentences were



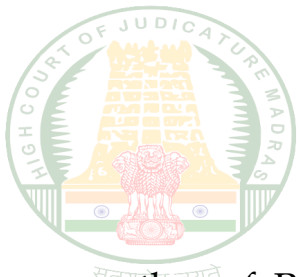
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ordered to run concurrently.

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5. Challenging the above said conviction and sentence, the petitioner has preferred an appeal in Criminal Appeal No.35 of 2023 on the file of the learned Principal Sessions Judge, Ramanathapuram. By a judgment, dated 08.12.2023, the learned Principal Sessions Judge, Ramanathapuram dismissed the appeal by confirming the conviction and sentence imposed by the trial Court. Being dissatisfied with the said conviction and sentence, the petitioner has preferred the present Criminal Revision Case before this Court. By an order, dated 10.12.2024, this Court has already dismissed the petition, seeking suspension of sentence, presented by the petitioner on the ground that there were several bad antecedents as against the petitioner. Now, the petitioner has come up before this Court with another petition seeking suspension of sentence.

6. It is submitted by the learned counsel for the petitioner that the Courts below failed to consider the evidence of prosecution witnesses, who are all interested witnesses. P.W.1 has deposed that he has no knowledge about the stolen properties. There are several contradictions in the evidence of prosecution witnesses. The evidence of P.W.1 was not corroborated by the other witnesses. P.W.2, who is the



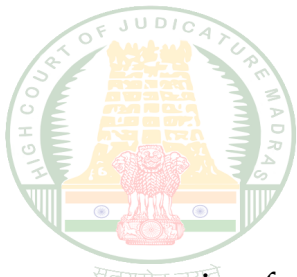
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mother of P.W.1, also did not support the prosecution case. Further, the learned counsel for the petitioner produced the details of previous cases against the petitioner stating that apart from the present case, the petitioner has been convicted in three other cases and the same were already ended at the stage of admission itself by paying fine amounts, and the petitioner has been acquitted in four cases, out of which, three cases have already been closed and in other case, he has been acquitted. Now, there are only two theft cases under Section 379 of IPC pending against the petitioner in C.C.Nos.31 and 39 of 2022. The petitioner has a fair chance of acquittal in this criminal revision, and is the only bread winner of his family. The petitioner is under custody since 28.09.2024. Therefore, he prays for the relief of suspension of sentence for the petitioner.

7. The learned Government Advocate (Criminal Side) appearing for the respondent submitted that there are enough materials available on record against the petitioner and hence, he opposed to grant the relief of suspension of sentence to the petitioner.

8. This Court has carefully considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate (Criminal Side)



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appearing for the respondent, and has also perused the materials available on record.

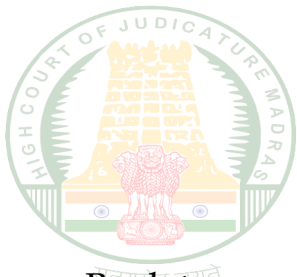
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9. The learned counsel for the petitioner pointed out that there are certain infirmities and inconsistencies in this case, and also there are certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further, the criminal revision is not likely to be taken up for final hearing in the near future, and also considering the period of incarceration suffered by the petitioner, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

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, Paramakudi.

(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



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Book to ensure their identity; and
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(iii) The petitioner shall appear before the learned Judicial Magistrate, Paramakudi once in a month i.e. on 1st working day of every English calendar month at 10.30 a.m., until further orders.

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

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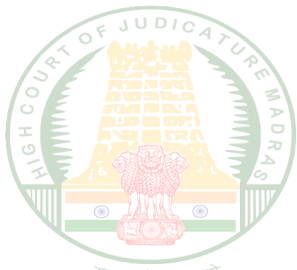
1. THE PRINCIPAL SESSIONS JUDGE, RAMANATHAPURAM

2. THE JUDICIAL MAGISTRATE, PARAMAKUDI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM.

4. THE INSPECTOR OF POLICE,
NAINAR KOVIL POLICE STATION, PARAMAKUDI TALUK,
RAMANATHAPURAM 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.M.S.JEYAKARTHIK, Advocate (SR-986[I] dated 28/01/2025)

ORDER
IN
CRL MP(MD) NO. 633 of 2025
IN
CRL RC(MD) NO. 996 of 2024
Date :28/01/2025

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