

CRL MP(MD) No. 2130 of 2025 in CRL RC(MD) No. 207 OF 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19-02-2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) No. 2130 of 2025 in CRL RC(MD) No. 207 OF 2025

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S/o.Sivalingam, No.8/3A, Melkarai, Thingal Nagar,
Neyoor Post, Kanyakumari District.

Petitioner

Vs

The State of Tamil Nadu

Rep by The Inspector of Police, Vadaseri Police Station,
Kanyakumari District. Crime No.115/2016.

Respondent

For Petitioner :

Mr.T.Wins, Advocate

For Respondent :

Mr.B.Thanga Aravindh,
Government Advocate (Criminal Side)

ORDER

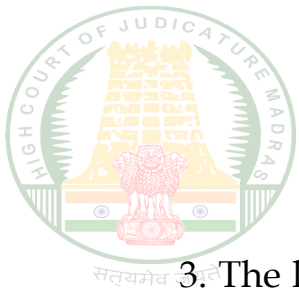
This Criminal Miscellaneous Petition has been filed to suspend the sentence passed by the Additional District and Sessions Court, Kanyakumari in C.A.No.38 of 2023 by judgment, dated 30.10.2024 modifying the judgment of the learned Judicial Magistrate No.II, Nagercoil, in C.C.No.130 of 2016, vide judgment dated 16.03.2023 pending the disposal of the criminal revision.

2. The case of the prosecution is that the petitioner/accused spread out the

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photos of the defacto complainant's wife and children in a teased manner in whatsapp. With regard to the same, there arose some dispute between the parties, due to that motive, the petitioner along with other accused abused the defacto complainant in filthy language and also attacked him and caused injuries. A case was registered in Crime No.115 of 2016 and after investigation, Charge sheet has been filed and the same was taken on file in C.C.No.130 of 2016 on the file of the learned Judicial Magistrate No.II, Nagercoil. After trial, the petitioner was convicted by the trial Court for the offence under Section 324 IPC and sentenced him to undergo one year simple imprisonment and to pay a fine of Rs.2,000/- in default to undergo one month simple imprisonment and acquitted him for the offence under Sections 294(b) and 506(ii) IPC. Against the conviction and sentence imposed by the trial Court, the petitioner has filed an appeal in C.A.No.38 of 2023 on the file of the Additional Sessions Court (Fast Track) Kanyakumari. The appellate Court partly allowed the appeal and modified the conviction and the sentence under Section 324 IPC imposed by the trial Court and sentenced him to undergo six months simple imprisonment and to pay a fine of Rs.2,000/- in default to undergo one month simple imprisonment. Aggrieved by the same, the petitioner has preferred the present Criminal Revision Case along with the Criminal Miscellaneous Petition seeking suspension of sentence.



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3. The learned counsel appearing 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.

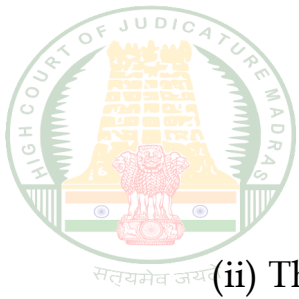
4. The learned Government Advocate (Criminal Side) appearing for the State would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

5. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

6. The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also 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 as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7. Accordingly, the relief of suspension of sentence and bail 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 Judicial Magistrate No.II, Nagercoil;



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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 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 the first working day of every English calendar month at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-

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25/02/2025

Sub-Assistant Registrar

(C.S. I / II / III / IV)

Madurai Bench of Madras High Court,

Madurai - 625 023.

DAS

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
KANYAKUMARI.

2 THE JUDICIAL MAGISTRATE NO.II,
NAGERCOIL.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.



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4 THE INSPECTOR OF POLICE,
VADASERI POLICE STATION,
KANYAKUMARI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

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

ORDER
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CRL MP(MD) No. 2130 of 2025 in
CRL RC(MD) No. 207 OF 2025
Date :19/02/2025

SA/GSV/SAR. /25.02.2025/5P/7C

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