



CRL MP(MD) No.5377 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 23.04.2025

Pronounced on : 30.04.2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) No.5377 of 2025

in

CRL RC(MD) No.523 of 2025

Shanmugasundaram

Petitioner

Vs

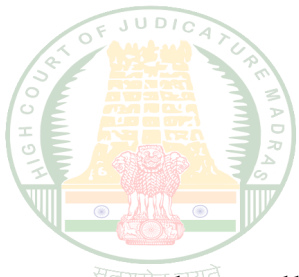
State, rep. by,
The Inspector of Police,
Navalpattu Police Station,
Tiruchirappali District.
(Crime No.345 of 2003)

Respondent

For Petitioner : Mr.V.Selvakumar, Advocate

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

The Criminal Miscellaneous Petition filed under Section 528 B.N.S.S. praying to suspend the sentence of the judgment dated 31.01.2025 made in Criminal Appeal No.126 of 2023 passed by the 2nd Additional District and Sessions Judge,



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Tiruchirappalli and modifying the judgment of C.C.No.674 of 2004 dated 27.09.2023 on the file of the Judicial Magistrate No.3, Tiruchirappalli pending disposal of the above criminal revision case.

ORDER

The Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed on the petitioner/sole accused by the learned Judicial Magistrate No.III, Tiruchirappalli, in C.C.No.674 of 2004, dated 27.09.2023, which was modified by the learned II Additional District and Sessions Judge, Tiruchirappalli, in Crl.A.No.126 of 2023, vide judgment dated 31.01.2025, pending disposal of the criminal revision.

2. The case of the prosecution is that on 05.09.2003 at about 02.00 a.m., the petitioner had stolen three barrels of kerosene (541 litres), which were kept outside the Gundur Ration shop, Navalpattu and on the basis of the complaint given by the defacto complainant, FIR came to be registered in Crime No.345 of 2003.

3. The respondent police, after completing the investigation, has filed the final report against the petitioner for the offence under Section 379 IPC and the case was taken on file in C.C.No.674 of 2004 on the file of the Judicial Magistrate No.III, Tiruchirappalli.



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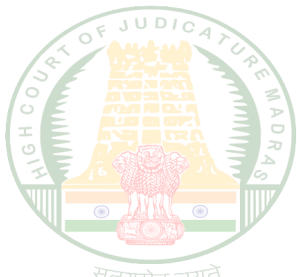
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4. During trial, the prosecution has examined 7 witnesses as P.W.1 to P.W.7, exhibited 7 documents as Ex.P.1 to Ex.P.7 and marked 1 material object as P.M.O.1. series. The accused has adduced neither oral nor documentary evidence.

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the judgment dated 27.09.2023 convicting the petitioner for the offence under Section 379 IPC and sentenced him to undergo simple imprisonment for 1 year and 6 months.

6. Challenging the above said conviction and sentence, the petitioner has preferred an appeal in CrI.A.No.126 of 2023 on the file of the II Additional District and Sessions Court, Tiruchirappalli. The learned Sessions Judge, while partly allowing the appeal, has confirmed the conviction and modified the sentence from 18 months to 10 months. Being dissatisfied with the said judgment of conviction, the petitioner has preferred the present Criminal Revision Case along with the above miscellaneous petition seeking suspension of sentence.

7. The learned counsel appearing for the petitioner would submit that the



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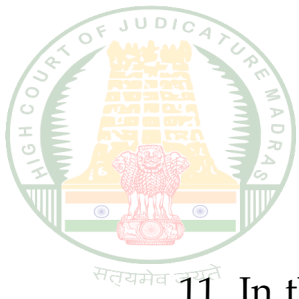
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petitioner is in prison from 26.03.2025. He would further submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

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

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

10. 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.



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11. In the result, the Criminal Miscellaneous Petition is ordered. 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 Judicial Magistrate No.III, Tiruchirappalli;

(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 355 B.N.S.S. 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/-
30/04/2025

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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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TO

1.THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUCHIRAPPALLI.

2.THE JUDICIAL MAGISTRATE NO.III,
TIRUCHIRAPPALLI.

3.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUCHIRAPPALLI DISTRICT.

4.THE SUPERINTENDENT,
CENTRAL PRISON, TIRUCHIRAPPALLI.

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

ORDER
IN

CRL MP(MD) No.5377 of 2025

Date :30/04/2025

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Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023