



CRL MP(MD) No.8079 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 01.04.2025

Pronounced on : 16.04.2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) No.8079 of 2024

in

CRL RC(MD) No.754 of 2024

S.Selvaraj

Petitioner

Vs

The State, through

The Sub Inspector of Police,

Malli Police Station,

Srivilliputhur,

Virudhunagar District.

(Crime No.146 of 2009)

Respondent

For Petitioner : Mr.A.Haja Mohideen, Advocate

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

The Criminal Miscellaneous Petition filed under Section 438(1) B.N.S.S. praying to suspend the judgment in Crl.A.No.145 of 2022 dated 21.07.2023 on the file of the Principal District and Sessions Judge, Virudhunagar confirming the judgment of conviction and sentence passed against the petitioner in C.C.No.271 of 2013 dated 26.09.2022 on the file of the Judicial Magistrate No.I, Sivakasi and enlarge the petitioner on bail pending disposal of the above criminal revision on the file of this Court.



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ORDER

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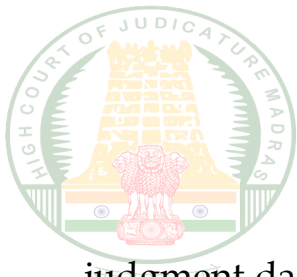
The Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed on the petitioner/second accused by the learned Judicial Magistrate No.I, Sivakasi, in C.C.No.271 of 2013, dated 26.09.2022, which was confirmed by the learned Principal District and Sessions Judge, Virudhunagar District @ Srivilliputtur, in Crl.A.No.145 of 2022, vide judgment dated 21.07.2023, pending disposal of the criminal revision.

2. The case of the prosecution is that the accused persons had committed the offence of theft of gold jewels from the house of the defacto complainant and on the basis of the complaint given by the defacto complainant, FIR came to be registered in Crime No.146 of 2009.

3. The respondent police, after completing the investigation, has filed the final report against four persons including the petitioner and the case was taken on file in C.C.No.271 of 2013 on the file of the Judicial Magistrate No.I, Sivakasi.

4. During trial, the prosecution has examined 14 witnesses as P.W.1 to P.W.14. exhibited 15 documents as Ex.P.1 to Ex.P.15 and marked 8 material objects as M.O.1 to M.O.8. The accused have 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



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judgment dated 26.09.2022 convicting the petitioner for the offence under Section 414 IPC and sentenced him to undergo rigorous imprisonment for 2 years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for 2 months.

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6. Challenging the above said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.145 of 2022 on the file of the Principal District and Sessions Court, Virudhunagar District @ Srivilliputtur. The learned Sessions Judge confirmed the conviction and sentence and dismissed the appeal. Being dissatisfied with the dismissal of the appeal, 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 there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner has paid the fine amount and that in this case, the petitioner is in prison from 02.12.2024.

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



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

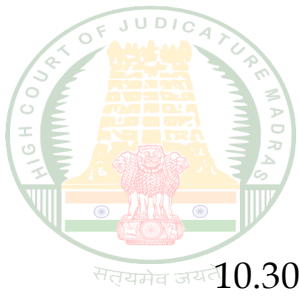
10. The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not 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.

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.I, Sivakasi;

(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



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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/-

16/04/2025

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17/04/2025

Sub-Assistant Registrar

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

Madurai Bench of Madras High Court,

Madurai - 625 023.

CSM

TO

1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE JUDICIAL MAGISTRATE NO.I,
SIVAKASI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

4 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

5 THE SUB INSPECTOR OF POLICE,
MALLI POLICE STATION,
SRIVILLIPUTHUR, VIRUDHUNAGAR DISTRICT.

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



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WEB COPY +1 CC to M/s.A.HAJA MOHIDEEN, Advocate (SR-4283[I] dated 16/04/2025)

ORDER
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in
CRL RC(MD) No.754 of 2024
Date :16/04/2025

SA/SAR. /16.04.2025/6P/8C

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