



CRL MP(MD) NO.13347 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02-01-2025

CORAM

THE HONOURABLE MR JUSTICE P.VADAMALAI

CRL MP(MD) NO.13347 of 2024

IN

CRL RC(MD) NO.1032 OF 2024

S.Abuthakeer
S/o. Shahul Hameed,
Thummanayakkanpatti,
Peraiyur Taluk,
Madurai District.

Petitioner(s)

Vs

S.Faritha Fathima
W/o. S. Abuthakeer,
No. 79, Nallur Kattubava South Street,
Asmabeevi Mansil,
Arupukottai- 626 101,
Virudhunagar District and another

Respondent(s)

For Petitioner(s) : Mr.P.Ramadass

ORDER

The petitioner has filed this petition to enlarge him on bail by suspending the sentence imposed on him as per order dated 06.09.2024 passed in Crl.M.P.No.191 of 2024 in M.C.No.56 of 2014 on the file of the Judicial Magistrate Court, Aruppukotai, Virudhunagar District, till the disposal of the main Criminal Revision Case in Crl.R.C

(MD)No.1032 of 2024.

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CRL MP(MD) NO.13347 of 2024

2.The brief facts of the case:

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The revision petitioner and the first respondent are husband and wife and out of wedlock, the second respondent was born to them. It is alleged that both the revision petitioner and the first respondent have been residing separately due to misunderstanding. Whiles, the first respondent along with her minor child filed the petition U/s.125 of Cr.P.C. seeking maintenance in M.C.No.56 of 2014 before the Judicial Magistrate Court, Arupukkottai, Virudhunagar District. The revision petitioner contested the same. After hearing both sides, the learned Judicial Magistrate, Arupukkottai allowed the petition directing the revision petitioner to pay Rs.10,000/- p.m each to the respondents from the date of filing the petition i.e., from 16.09.2014. As the revision petitioner has not paid the maintenance amount, the first respondent filed the petition u/s 125(3) of Cr.P.C. seeking arrears and the learned Judicial Magistrate passed the order of sentence of imprisonment of 18 months. Challenging the order, the revision petitioner preferred Crl.R.C(MD)No.581 of 2022 before this Court and the sentence was reduced to 6 months and the petitioner had undergone the said sentence. Again the petitioner has not paid the maintenance and as there was arrears for 61 months from 16.02.2019 to 15.04.2024, the first respondent filed the petition U/s.125(3) of Cr.P.C. in Crl.M.P.No.191 of 2024 in M.C.No.56 of 2014 before the Judicial Magistrate Court, Arupukkottai. After hearing both, the



CRL MP(MD) NO.13347 of 2024

learned Judicial Magistrate, Aruppukottai passed the order, dated 06.09.2024 imposing imprisonment of 30 months Simple Imprisonment or until payment of arrears of maintenance.

3. Being aggrieved by the same, the revision petitioner has preferred the main Criminal Revision Case. Along with the criminal revision case, the revision petitioner has filed this present petition seeking for suspending the impugned order and for enlarging the petitioner on bail pending disposal of the main criminal revision case.

4. The learned counsel appearing for the revision petitioner has submitted that the petitioner is now aged 50 years and he has been living separately without any source of income as he is solely depending on his younger brother. He would further submit that since the petitioner had no sufficient means he was not able to pay the maintenance as ordered by the Court and hence, he surrendered before the police station on 06.09.2024 and from then onwards he is in custody for the past four months. Though the petitioner tried to pay maintenance by way of demand draft, the respondent refused to accept the same. The trial Court has not given sufficient opportunity to the petitioner to prove his case. There are several infirmities in maintenance case. However, on the petitioner's side, it is submitted that the petitioner is ready to deposit 50% of the arrears of maintenance amount as on the date of filing of this petition. So, the impugned order may be suspended till disposal of criminal



CRL MP(MD) NO.13347 of 2024

revision and the petitioner may be enlarged on bail.

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5. This Court has carefully considered the submissions put forward by the petitioner side and also perused the materials available on record. The petitioner is aged 50 years. Since he was unable to pay the maintenance, as ordered by the Judicial Magistrate Court, he himself surrendered before the police and he is custody for the past four months. Though the petitioner has preferred the main criminal revision against the impugned order of imprisonment of 30 months passed in Cr.M.P.No.191 of 2024 in M.C.No.56 of 2014 by the learned Judicial Magistrate, Aruppukottai on 06.09.2024 alleging certain infirmities in the impugned order, they are to be decided while deciding the criminal revision on merits. At this juncture, the petitioner has submitted that he is ready to deposit 50% of the arrears of maintenance amount i.e. Rs.6,10,000/-. Therefore, considering the above facts and circumstances and the age of the petitioner, and also the incarceration period of the petitioner, this Court is of the considered view that the petitioner is entitled to the relief of suspension of sentence on condition.

6. Accordingly, the suspension of sentence petition is allowed and the sentence of the imprisonment alone is suspended against the petitioner till the disposal of the main Criminal Revision on the following conditions:-

(i) The petitioner shall deposit 50% of the arrears of maintenance amount i.e.,



CRL MP(MD) NO.13347 of 2024

Rs.6,10,000/- (Rupees Six lakhs Ten Thousand only) to the credit of Cr.M.P.No.191 of 2024 in M.C.No.56 of 2014 on the file of the learned Judicial Magistrate, Aruppukottai;

(ii) On such deposit, the petitioner is ordered to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Aruppukottai;

(iii) 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

(iv) 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.

sd/-
02/01/2025

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02/01/2025

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSD
To

1 THE JUDICIAL MAGISTRATE, ARUPPUKOTTAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) NO.13347 of 2024

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

ORDER

IN

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Date :02/01/2025

RS/IT/SAR-(02.01.2025) 6P 5C

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