



CRL MP(MD) No.18232 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.02.2025

Pronounced on : 26.02.2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) No.18232 of 2023

in

CRL RC(MD) No.1442 of 2023

Periyasamy

...Petitioner

Vs

The State rep. by
Inspector of Police,
Idol Wing, Chennai,
Kumbakonam Town East Police Station.
(Crime No.158 of 2000)

...Respondent

For Petitioner :

Mr.D.Ramesh Kumar, Advocate

For Respondent :

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

ORDER

This Criminal Miscellaneous Petition has been filed seeking orders to suspend the sentence of imprisonment imposed on the petitioner/15th accused by the learned



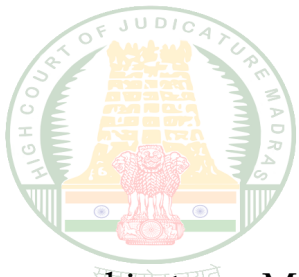
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Additional Chief Judicial Magistrate, Kumbakonam, in C.C.No.01 of 2001, dated 02.05.2017, which was confirmed by the learned Additional District and Sessions Judge, (Fast Track Court), Kumbakonam, in Crl.A.No.37 of 2017, vide judgment dated 27.08.2020 and to enlarge the petitioner on bail pending disposal of the criminal revision.

2. The case of the prosecution is that the petitioner/15th accused had conspired together with the other accused and stolen the antique stone idols in the temples situated in Thanjavur and Perambalur Districts in order to sell the same and on the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.158 of 2000.

3. The respondent police, after completing the investigation, has filed the final report against 22 persons including the petitioner herein and the case was taken on file in C.C.No.1 of 2001 and the same was pending on the file of the Additional Chief Judicial Magistrate, Kumbakonam

4. During trial, the prosecution has examined 107 witnesses as P.W.1 to P.W.107, exhibited 150 documents as Ex.P.1 to Ex.P.150 and marked 41 material



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objects as M.O.1 to M.O.41. 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 judgment dated 02.05.2017 convicting the petitioner/15th accused and sentenced him as follows:-

Sl. No.	Provision under which convicted	Sentence of imprisonment/fine imposed
1.	401 I.P.C.	Rigorous Imprisonment for 3 years and imposed a fine of Rs.500/-, in default, to undergo simple imprisonment for 3 months
2.	120-B r/w Section 457(2) IPC	Rigorous Imprisonment for 3 years and imposed a fine of Rs.5,000/-, in default, to undergo simple imprisonment for 6 months for each offence.
3.	120-B and 380 (2) IPC	Rigorous Imprisonment for 3 years and imposed a fine of Rs.2,000/-, in default, to undergo simple imprisonment for 6 months for each offence.
4.	457 (2) IPC	Rigorous imprisonment for 3 years and imposed a fine of Rs.5,000/-, in default, to undergo 6 months simple imprisonment.
5.	380(2) IPC	Rigorous imprisonment for 3 years and imposed a fine of Rs.2,000/-, in default, to undergo 6 months simple imprisonment.

All the above sentences were ordered to run concurrently.



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6. Challenging the above said conviction and sentence, the petitioner along with accused Nos.3, 7 and 12 have filed an appeal in CrI.A.No.37 of 2017 on the file of the learned Additional District and Sessions Court (FTC), Kumbakonam. The learned Additional District and 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 the petitioner is in prison and that the petitioner has already paid the fine amount. 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

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



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either side and also perused the materials available on record.

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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 Additional District and Sessions Judge (Fast Track Court), Kumbakonam;

(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



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(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/-
26/02/2025

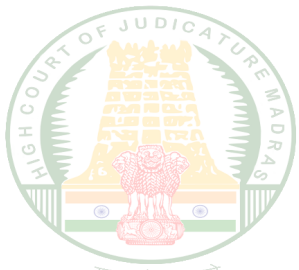
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28/02/2025
Sub-Assistant Registrar (PA-I)
Madurai Bench of Madras High Court,
Madurai - 625 023.

csm

To

- 1.The Additional District and Sessions Judge (Fast Track Court), Kumbakonam
2. The Additional Chief Judicial Magistrate, Kumbakonam
3. Do through the Chief Judicial Magistrate,
Thanjavur.
- 4.The Superintendent,
Central Prison, Trichy.



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5.The Inspector of Police,
Idol Wing, Chennai,
Kumbakonam Town East Police Station.

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER
IN
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in
CRL RC(MD) No.1442 of 2023
Date :26/02/2025

RK/ (28/02/2025) 7P / 7C
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