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Crl.MP(MD)No.16879 of 2025
in
Crl.R.C.(MD)No.1431 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2025

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THE HONOURABLE MR.JUSTICE SHAMIM AHMED

Crl.MP(MD)No.16879 of 2025
in
Crl.R.C.(MD)No.1431 of 2025

Nelson Duraisingh,
S/o.Iyyadurai,
No.1/103, South Street,
Puthukottai,
Thoothukudi District.

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
Puthukottai Police Station,
Thoothukudi District,
(Crime No.413/2017)

... Respondent

Prayer : This Criminal Miscellaneous Petition filed under Section 430 of B.N.S.S. praying to suspend the Sentence imposed upon the Revision Petitioner passed by the learned Principal Sessions Judge, Thoothukudi in Crl.A.No.49 of 2022, dated 09.10.2025, confirming the judgment made in C.C.No.111 of 2019, dated 01.06.2022, on the file of the learned Judicial Magistrate Court No.III, Thoothukudi pending disposal of the above revision petition.

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For Petitioner : Mr.M.S.Mohamed Ayub
For Respondent : Mr.M.Karunanithi
Government Advocate
(Criminal Side)

ORDER

Heard Mr.M.S.Mohamed Ayub, learned Counsel for the Revision Petitioner and Mr.M.Karunanithi, learned Government Advocate (Criminal Side) for the Respondent.

2. This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed upon the Revision Petitioner by the learned Chief Judicial Magistrate, Thoothukudi in C.C.No.111 of 2019, vide order dated 01.06.2022, which was confirmed by the learned Principal Sessions Judge, Thoothukudi in Crl.A.No.49 of 2022, dated 09.10.2025, wherein the Revision Petitioner, was convicted and sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.1000/-, in default, to undergo simple imprisonment for one week, for the offence punishable under Section 279 of IPC and sentenced



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to undergo simple imprisonment for one year and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for one month for the offence punishable under Section 304A of IPC. Challenging the above conviction and sentence, the Revision Petitioner has filed Criminal Revision Petition in Crl.RC(MD)No.1431 of 2025 along with the instant miscellaneous petition, seeking suspension of sentence and bail.

3. Mr.M.S.Mohamed Ayub, learned counsel for the Revision Petitioner submitted that PW3 and PW4 claimed to be eyewitnesses to the incident. However, PW3 stated during cross-examination that he reached the place of occurrence at about 5:05 A.M., whereas the accident occurred at 4:00 A.M. This clearly proves that they could not have witnessed the occurrence, and therefore, the credibility of PW3's evidence itself is questionable. Without properly considering this aspect, the Courts below convicted the Revision Petitioner. It is further submitted that PW3 and PW4 did not depose that they actually saw the accident take place. They stated that they saw the situation only after the vehicle had toppled. This clearly establishes that PW3 and PW4 were not



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eyewitnesses to the occurrence. Therefore, there was no possibility of proving that the Revision Petitioner drove the vehicle in a rash or negligent manner. Without considering these crucial aspects, both the Courts below wrongly convicted the Revision Petitioner.

4. In view of the above, it was argued that the conviction recorded by the Trial Court is legally unsustainable. It was further argued that the learned Trial Court as well as Appellate Court also failed to notice the discrepancies in the deposition of witnesses and the crystal part of the evidences was not at all assessed by both the Courts. It was further argued that the judgment passed by both the Courts was based on surmises and conjectures without considering the entire evidence on record.

5. It was further argued that due to pendency of the criminal cases before this High Court, there is a blinking chance that in the near future, this criminal revision case will be finally heard and decided. He further submits that there are arguable points in this Revision and the Revision



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Petitioner has fair chance of success in this Criminal Revision Case.

Thus, he prayed for suspension of sentence and be released on bail, till the disposal of this Criminal Revision Petition, as the Revision Petitioner was already granted bail during trial.

6. Several other submissions in order to demonstrate the falsity of the allegations made against the Revision Petitioner have also been placed forth before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been touched upon at length. It has been assured on behalf of the revision petitioner that he is ready to cooperate with the process of law and shall faithfully make himself available before the Court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. The Revision Petitioner undertakes that, in case, he is released on bail, he will not misuse the liberty of bail and will cooperate in disposal of revision.



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7. Learned Government Advocate (Criminal Side) appearing for the Respondent has opposed the argument advanced by the learned counsel for the Revision Petitioner and submits that the judgments passed by both the Courts are as per law after considering the entire evidence, thus the relief sought by the Revision Petitioner at this stage be refused by this Court.

8. Considering the arguments advanced by the learned counsel for the Revision Petitioner and the learned Government Advocate for the Respondent, this Court is of the view that the Trial Court has failed to appreciate the evidence on record and the judgment was passed without considering the entire materials place before it and during trial the Revision petitioner was also on bail.

9. Further, it is observed that when the accused has been under incarceration for sometime and when there are points in the revision, which favour the accused, then the Courts should not shy from granting suspension of sentence, as the liberty of the individual would be at stake



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if the revision results in acquittal at a later point of time. In this regard, the decision of the Hon'ble Supreme Court of India in the case of ***Rabi Prakash Vs. The State of Odhisha reported in 2023 Live Law (SC) 533*** is of relevance.

10. The Revision Petitioner has raised substantial grounds in the Revision which require detailed appraisal. Further, the Revision is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the Revision petitioner is entitled to the relief of suspension of sentence and bail.

11. Accordingly, the relief of suspension of sentence and bail is granted to Revision Petitioner namely Nelson Duraisingh, S/o.Iyyadurai, on the following conditions:



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- (i) The Revision petitioner shall surrender before the Chief Judicial Magistrate, Thoothukudi, within three weeks from today and on such surrender, the revision petitioner is ordered to be released on bail on his executing a personal bond along with two sureties for a sum of Rs.10,000/- each subject to furnishing undertaking that he will co-operate in the hearing of the present Revision.
- (ii) The Revision petitioner and sureties shall affix their photographs and Left Thumb Impression in the bond and the above said Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and;
- (iii) The realization of fine, if any, shall also remain suspended during the pendency of the present Revision.
- (iv) The Revision Petitioner shall appear before the Chief Judicial Magistrate, Thoothukudi, once in every month, ie., on the first working day, commencing from the month of December 2025, at 10.30 a.m., until further orders.



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12. On acceptance of his bail bonds and sureties, the learned Trial Court shall transmit photostat copies thereof to this Court for being kept on records of this Revision.

13. With the above directions, this Criminal Miscellaneous Petition is **ordered**.

19.11.2025

Nsr

To:

1.The Chief Judicial Magistrate, Thoothukudi.

2.The Principal Sessions Judge, Thoothukudi.

3.The Inspector of Police,
Puthukottai Police Station,
Thoothukudi District,
(Crime No.413/2017)

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



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SHAMIM AHMED, J.

Nsr

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