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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27-01-2025

CORAM

THE HONOURABLE MR JUSTICE P.VADAMALAI

CRL MP(MD) No. 938 of 2025

IN

CRL RC(MD) No. 89 of 2025

Suresh

S/o.Elayaperumal,

Elangamanipuram,

Kulasekarapuram,

Kanyakumari District.

.... Petitioner/Petitioner/ Appellant/ Accused

Vs

The State of Tamilnadu

Rep by The Sub Inspector of Police,

South Thamaraikulam Police Station,

Kanyakumari District.

Crime No.56 of 2016.

... Respondent/Respondent/Respondent/ Complainant

For Petitioner : Mr.S.Palanivelayutham, Advocate

For Respondent : Mr.M.Vaikkam Karunanithi,
Government Advocate (Criminal Side)



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ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed against the petitioner/A1 by the learned Judicial Magistrate, Additional Mahila Court, Nagercoil in C.C.No.161 of 2018 dated 30.12.2021, which was modified in Criminal Appeal No.4 of 2022, dated 05.11.2024, by the learned Additional District and Sessions Judge (Fast Track Court), Nagercoil pending disposal of the Criminal Revision Case in CrI.R.C.(MD)No.89 of 2025.

2. Based on a complaint given by the de-facto complainant, a First Information Report, in Crime No.56 of 2016, came to be registered by the respondent police as against the accused for the offence under Sections 294(b), 323, 326 and 506(1) of IPC read with Section 4 of TNPHW Act.

3. The respondent, after completing the investigation, has filed the final report and the same was taken on file in C.C.No.161 of 2018 on the file of the learned Judicial Magistrate, Additional Mahila Court, Nagercoil.



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4. The learned counsel appearing for the petitioner submitted that the petitioner/A1 has been convicted by the trial Court on 30.12.2021, and the trial Court sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2,000/- (Rupees Two Thousand only), in default, to undergo simple imprisonment for a period of three months for the offence under Section 326 of IPC. He was acquitted by the trial Court for the offence under Sections 294(b), 323, 506(2) of IPC and Section 4 of TNPHW Act.

5. Challenging the above said conviction and sentence, the petitioner has preferred an appeal in Criminal Appeal No.4 of 2022 on the file of the learned Additional District and Sessions Judge (Fast Track Court), Nagercoil. The learned Additional District and Sessions Judge (Fast Track Court), Nagercoil partly allowed the appeal by modifying the sentence imposed on the petitioner by the learned Judicial Magistrate, Additional Mahila Court, Nagercoil in C.C.No.161 of 2018 dated 30.12.2021. Accordingly, the sentence imposed on the petitioner for the offence under Section 326 of IPC was reduced from two years of rigorous imprisonment to one year of rigorous imprisonment. Being dissatisfied with the said conviction and sentence, the petitioner has preferred the present Criminal Revision Case, along with this Criminal Miscellaneous Petition seeking suspension of sentence, before this Court.



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6. It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case, and also there are contradictions in material particulars between the evidence of the prosecution witnesses. Further, he submitted that the fine amount of Rs.2,000/- (Rupees Two Thousand only) imposed on the petitioner has already been paid.

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

8. This Court has carefully considered the submissions made by the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent, and has also perused the materials available on record.

9. The learned counsel for the petitioner pointed out that there are certain infirmities and inconsistencies in this case, and also there are 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, 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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10. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision with the following directions :

(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 learned Judicial Magistrate/Additional Mahila Court at Nagercoil, Kanyakumari District;

(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 learned Judicial Magistrate, Additional Mahila Court, Nagercoil once in a month i.e., on first working day of every English calendar month at 10.30 a.m., until further orders.

Sd/-
27/01/2025

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/02/2025

Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai -625 023

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TO

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1 THE ADDITIONAL DISTRICT SESSIONS JUDGE,
(FAST TRACK COURT) AT NAGERCOIL,
KANYAKUMARI DISTRICT.

2 THE JUDICIAL MAGISTRATE,
ADDITIONAL MAHILA COURT AT NAGERCOIL,
KANYAKUMARI DISTRICT.

3 DO-THROUGH- THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

4 THE SUB INSPECTOR OF POLICE,
SOUTH THAMARAikulam POLICE STATION,
KANYAKUMARI DISTRICT.

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

+1 CC to M/s.S.PALANI VELAYUTHAM, Advocate (SR-918[I] dated 27/01/2025)

ORDER

IN

CRL MP(MD) No.938 of 2025

Date :27/01/2025

ES/VR/SAR /06.02.2025/ 6P/7C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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