



WEB COPY

CRL OP No. 4869 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-03-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 4869 of 2026

Suresh

..Petitioner

Vs

1. The State
Rep. by the Public Prosecutor
2. The Inspector of Police
R.S. Puram Police Station,
Coimbatore District

..Respondents

To set aside the order dated 23.01.2026 made in M.P. No.01 of 2026 in C.A. No.47 of 2026 on the file of the Ld. Principal District and Sessions Judge, Coimbatore by allowing this Criminal Original Petition.

For Petitioner : Mr.R.T.Vishnu

For Respondents : Mr. Leonard Arul Joseph Selvam,
Additional Public Prosecutor

ORDER

The petitioner/accused was convicted by the Trial Court in S.C.No.42 of 2022 for the offence under section 392 of IPC and sentenced to three years R.I and to pay a fine of Rs.1,000/-, in default three months S.I. The petitioner was acquitted for the offence under Section 397 r/w 506(2).



2. Aggrieved against the conviction, the petitioner had preferred an appeal before the Sessions Court in Criminal Appeal No.47 of 2026 and also filed a suspension of sentence petition in M.P.No.1 of 2026. The learned Sessions Judge by order dated 23.01.2026, admitted the appeal and dismissed the suspension of sentence petition, against which the present petition has been filed.

3. The case of the prosecution is that on 25.06.2020, at about 10.10 am, the defacto complainant walking towards Mahalakshmi Bakery after parking his two-wheeler, when the accused had interrupted the defacto complainant and demanded money from him by threatening him with knife. Thereafter, the accused had taken away a sum of Rs.200/- and a phone worth of Rs.1,500/- from the packet of the defacto complainant. When the defacto complainant attempted to refrain from the accused, he fled away from the place. Thereafter, the defacto complainant had raised an alarm and PW2, PW3, PW4 & PW5 who were near the scene of occurrence had attempted to catch him. At that time, the petitioner had threatened them by showing knife and fled away.

4. Subsequently, the petitioner was arrested in this case and on completion of investigation, a charge sheet has been filed and the case was tried by the Assistant Sessions Judge, Coimbatore. During Trial, PW1 to PW10 were examined. Ex.P1 to Ex.P9 were marked and M.O.1 to M.O.3 were produced.



5. The Trial Court, on conclusion of the trial, had convicted the petitioner as stated above. On appeal, the lower appellate court dismissed the suspension of sentence petition, against which the present petition.

6. The contention of the petitioner is that the maximum period of sentence imposed against the petitioner is only for three years and the petitioner is entitled for suspension of sentence under Section 389 of the Code of Criminal Procedure. However, the lower appellate court had dismissed the suspension of sentence for the reason that the petitioner was involved in seven cases of similar nature and without considering the petitioner's case on merits. He further submitted that the narration of the above case would clearly show that it is a fabricated case for detaining the petitioner under Act 14. In this case, PW2 to PW5, the alleged eye-witnesses who were present in the scene of occurrence, their evidence are contradictory to each other and also with that of PW1. The arrest and recovery is doubtful. But the Trial Court, instead of giving benefit of doubt to the petitioner, had given benefit of doubt to the witnesses, stating that witnesses examined after a long period of time from the date the occurrence, hence there might be some variations and not considered them as contradictions. He further submitted that the petitioner was in incarceration from 25.06.2020 to 08.04.2021 and after conviction, he was in prison since 16.12.2025, i.e., for almost 3 months. Hence, the petitioner had spent more than 1/3rd of his sentence.



7. The learned Additional Public Prosecutor strongly opposed the petitioner's contention and submitted that in this case, the defacto complainant is the victim, who had suffered threats by the petitioner with knife and lost Rs.200/- and a mobile phone worth of Rs.1,500/- which was taken away by the petitioner. On arrest, the knife was marked as MO1, the mobile phone was seized and marked as MO2. Further, in this case, PW2 to PW5 are the eye-witnesses present in the scene of occurrence who confirmed and corroborated the evidence of PW1. PW6 and PW7 are the witnesses for arrest and recovery. PW8 to PW10 are the Police Officials who were Investigation Officers in this case. All the witnesses supported the case of the prosecution. The trial court considered the case and rightly convicted the petitioner. Further, insofar as Crime No.996 of 2016, Crime No.1183 of 2016 and Crime No.1193 of 2016 on the file of the Palladam Police Station are concerned, the cases have been disposed of. With regard to the case in Crime No.362 of 2016 on the file of the Kamanayakkanpalayam Police Station and Crime No.388 of 2019 & Crime No.387 of 2019 on the file of the Thudiyalur Police Station are concerned, though charge sheets have been filed, they are yet to be taken on file. With regard to Crime No.819 of 2020 & Crime No.906 of 2020 on the file of B2, R.S.Puram Police Station and Crime No.25 of 2021 on the file of Kadaiyalumoodu Police Station are concerned, the cases are pending trial.



8. Considering the fact that except for the present case, in all the other cases, the petitioner was granted bail and the petitioner was already in prison for more than a year, i.e., 1/3rd of his sentence and the appeal is likely to be heard after sometime, this court is inclined to grant suspension of sentence. Accordingly, the order dated 23.01.2026 passed in M.P.No.1 of 2026 on the file of the learned Principal District and Sessions Judge, Coimbatore is set aside.

9. The petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)**, with **two sureties** each for a like sum to the satisfaction of the **learned Assistant Sessions Judge, Coimbatore** and subject to the following conditions:

[a] the sureties shall affix their photographs and Left Thumb Impression in the Application for Surety ship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judge shall obtain a copy of any one of the identity proofs to ensure their identity;

[b] the petitioner shall report before the second respondent police daily at 11.00 a.m., till the disposal of the appeal, except when he has to appear before the trial court in connection with the other crimes;

[c] on breach of any of the aforementioned conditions, the learned Judge is entitled to take appropriate action against the petitioner in accordance with law as if the conditions had been imposed and the petitioner released on bail by the learned Magistrate/Trial Court itself, as laid down by the



Hon'ble Supreme Court in *P.K.Shaji vs. State of Kerala*
[(2005)13 SCC 283];

[d] if the petitioner thereafter absconds, a fresh FIR may be registered under Section 269 of the Bharatiya Nyaya Sanhita, 2023.

With the above direction, this Criminal Original Petition is ordered.

11.03.2026

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Note: Issue the order copy on 12.03.2026

To

1. The Public Prosecutor
Public Prosecutor.
2. Inspector of Police
R.S. Puram Police Station,
Coimbatore District.
3. The Superintendent,
Central Prison, Coimbatore.



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M.NIRMAL KUMAR, J.

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