



Crl.M.P.No.17208 of 2023 in Crl.A.No.1213 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

Crl.M.P.No.17208 of 2023
in Crl.A.No.1213 of 2023

Velmurugan

... Petitioner

Vs.

State, represented by
The Inspector of Police,
Jayankondam Police Station,
Ariyalur District.
(Crime No.21 of 2020).

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389(1) of Cr.P.C., to suspend the sentence imposed in S.C.No.14/2021 dated 10.10.2023 on the file of Addl. District Sessions Judge, Ariyalur and enlarge the petitioner on bail, pending disposal of the above Crl.Appeal on the file of this Court.

For Petitioner	:	Mr.R.Sankarasubbu
For Respondent	:	Mr.A.Damodaran, Additional Public Prosecutor

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed in the judgment, dated 10.10.2023 in S.C.No.14 of 2021 by the learned Additional District Sessions Judge, Ariyalur (trial Court) and



enlarge him on bail pending disposal of the main appeal.

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2.The petitioner was convicted by the trial Court for offence under Section 304(ii) of IPC and sentenced to undergo ten years Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default to undergo one month Simple Imprisonment. Challenging the conviction and sentence of the trial Court, the petitioner preferred an appeal and the Suspension of Sentence.

3.It is seen that in this case, the petitioner along with yet another person/A2 were tried by the trial Court and A2 acquitted from the charges under Section 304(ii) of IPC.

4.The case of the prosecution is that on 14.01.2020, at about 02.00 p.m., when the deceased Senthamizhselvan was in his house, A2 and Arunraj/A3, a Juvenile, came to his house, called the deceased to repair streetlight in front of Elangovan house since the streetlight was not properly worked. The petitioner/A1 who is incharge of Kallathur Panchayat for



maintenance of all electric posts and streetlights, had asked them to repair streetlights. Hence, all the three had come there, without proper safety gears and safety measures, the deceased was forced to climb post and to repair the streetlight. At that time, the deceased came in contact with high tension electric line, struggled there. Later, the deceased was brought down by the villagers, took him to the Government Hospital, Tiruchirapalli where he passed away. On the complaint (Ex.P1), PW7, the Sub Inspector of Police registered FIR (Ex.P4), enquired PW1 & PW2, the father and mother of the deceased and other witnesses present in the scene of occurrence. PW3 and PW4 are witnesses present in the scene of occurrence, PW5 is the Observation Mahazar witness and PW6 is the Doctor who conducted postmortem on the body of the deceased and confirmed that the deceased had 80% of burn injuries. Thereafter, PW7 handed over the investigation to PW8. PW8, the Inspector of Police completed the investigation and filed the charge sheet.

5.During trial, on the side of the prosecution eight witnesses examined as PW1 to PW8 and six documents marked as Exs.P1 to P6. On



the side of the defence, no witness examined and no document marked. The trial Court on the evidence and materials rendered the judgment of conviction as stated above.

6.The learned counsel for the petitioner submitted that on the admitted case of the prosecution, utmost it can be said that it is a case of 304(A) IPC and not the offence under Section 302 IPC. The respondent Police initially filed charge sheet for offence under Section 302 IPC. The trial Court on the evidence and materials convicted the petitioner for offence under Section 304(ii) of IPC and sentenced him to ten years Rigorous Imprisonment. In this case, there is no intention or knowledge to the petitioner. In such circumstances, the petitioner being convicted under Section 304(ii) of IPC is not proper. He further submitted that PW1 and PW2 are the parents of the deceased who was inside the house at the time of occurrence and only after coming to know about the incident, they came to the scene. During evidence, they only stated to that effect that A2 and A3 in this case came to their house and called the deceased for work. The petitioner being employed in Kallathur Panchayat and incharge of



streetlights, not fixed with responsibility of providing safety gears and safety measures. When the prosecution case is only that the safety gears and safety measures have not been provided, where is the question of culpable homicide not amounting to murder.

7.The learned counsel further submitted that even the Observation Mahazar (Ex.P2) shows about the deceased coming in touch with the electric line, thereafter, affected with electric shock, due to which, he sustained burn injuries. The specific case of the petitioner is that the petitioner went to house for lunch and he was not present at the time of accident. In this case, there is no material to show that the petitioner engaged the deceased or any other person to carry out repair work on streetlights. PW3 and PW4 are the witnesses to the limited extent to show that the deceased had gone along with A2 and Juvenile/A3. Assailing these points, prays for Suspension of Sentence and bail.

8.The learned Additional Public Prosecutor appearing for the respondent Police objected the submissions of the learned counsel for the



petitioner and submitted that in this case, PW1 is the father of the deceased who lodged the complaint (Ex.P1) to PW7, the Sub Inspector of Police. On receipt of the complaint (Ex.P1), PW7 rushed to the Government Hospital, Tiruchirapalli where he was declared dead due to electric shock. PW6 is the Doctor who issued Exs.P3 & P6 confirming the death of the deceased due to electric shock. PW8, the Inspector of Police took up the investigation, visited the scene of occurrence, recorded the statement of the witnesses present in the scene, prepared Observation Mahazar (Ex.P2), Rough Sketch (Ex.P5). It is proved that the deceased died due to electric shock and the repair work was allotted by the petitioner. The petitioner being the incharge of Kallathur Panchayat street lights, without disconnecting the electricity, forced the deceased to climb electric post to do repair work and thereby, in the process, the deceased came in contact with the electric line and succumbed to electric shock. The trial Court on the evidence and materials had rightly convicted the petitioner. Hence, he strongly opposed for Suspension of Sentence.



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9.Considering the submissions and on perusal of the materials, it is seen that in this case, A2 who is also faced similar charge as that of the petitioner had been acquitted from the case by the trial Court. Admittedly, there is no cross appeal against the judgment of acquittal of A2. The petitioner/A1 is incharge of Kallathur Panchayat streetlights. The case against him is that without giving proper training and not providing safety gears and taking safety measures, the deceased was forced to climb electric post. Due to which, the deceased suffered electric shock and burn injuries, later died. The contention of the petitioner that it would amount negligence and utmost it can be a case of accident and not a case of culpable homicide not amounting to murder. In view of the same, this Court is of the view that the conviction of the petitioner to be relooked and reviewed.

10.Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail, on condition that he shall execute 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 trial Court.



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11.Further, the petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 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. Accordingly, this Miscellaneous Petition is ordered.

30.11.2023

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Note: Issue Order Copy on 01.12.2023.

To

- 1.The Additional District Sessions Court,
Ariyalur.
- 2.The Superintendent,
Central Prison, Tiruchirapalli.
- 3.The Inspector of Police,
Jayankondam Police Station,
Ariyalur District.
- 4.The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR., J.

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