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CRL MP No. 5623 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-07-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL MP No. 5623 of 2026

in

Crl.A.No.353 of 2026

Madhaiyan
S/o.Mookan,
Residing at, No.1/92, Annaikallanoor Village,
Noolahalli Post, Dharmapuri District.

..Petitioner/A1

Vs

State rep Inspector of Police,
Pennagaram Police Station,
Dharmapuri District.
Crime No.118/1997

..Respondent(s)

Prayer : Criminal Miscellaneous Petition filed under Section 389 of Cr.P.C., [430 of BNSS] praying to suspend the sentence imposed in S.C.No.313 of 2005, on the file of learned Additional District and Sessions Judge, Dharmapuri District dated 08.01.2025 and enlarge the petitioner/Appellant on bail till the disposal of the main Criminal Appeal.

For Petitioner:

Mr.Shanmuga Velayutham,
Senior Counsel,
for M/s.T.Balachandran



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For Respondent(s): Mr.A.Amarnath,
Counsel for Government of Tamil Nadu
(Crl.Side)

ORDER

(Order of the Court was made by Sunder Mohan J.)

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner vide judgement and order dated 08.01.2025 passed in S.C.No.313 of 2005 on the file of the learned Additional District and Sessions Judge, Dharmapuri, and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner, who was arrayed as A1 in the above Sessions Case was convicted by the trial Court for the offences under Sections 148, 450, 302 of the IPC and sentenced as follows:

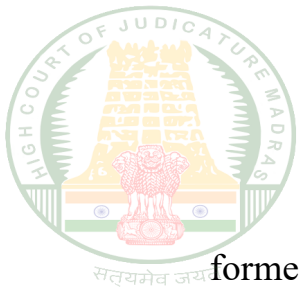
Offence under Section	Sentence imposed
148 IPC	to undergo rigorous imprisonment for three years.
450 IPC	to undergo rigorous imprisonment for ten years and to pay a fine of Rs.3,000/- in default to undergo simple imprisonment for one year.
302 IPC	to undergo rigorous imprisonment for life and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for two years.
The sentences were directed to run concurrently.	



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3. Heard the learned senior counsel for the petitioner and the learned Counsel for Government of Tamil Nadu (Crl.Side) appearing for the respondent/State.

4. It is the case of the prosecution that there was a dispute between the family members of the deceased and the other members of the village as regards the conduct of a village temple festival; that the villagers ex-communicated the family of the defacto complainant; that when the deceased had gone to water their lands, the villagers restrained him; that a dispute arose on account of the same; that the petitioner along with 28 others belonging to the village chased the deceased with deadly weapons; that the deceased ran to his house; that the accused entered the house, broke the doors, damaged the household articles and dragged the deceased outside the house; that the petitioner/A1 attacked the deceased with a bill hook on his head; that A2 attacked the deceased with an axe on his right hand; the other accused assaulted the deceased with wooden log on his chest and right leg; and that the remaining accused with a common object of causing the death of the deceased and the other victims had



formed themselves into an unlawful assembly and caused damage to the household articles.

5. Mr. Shanmuga Velayutham, learned senior counsel for the petitioner would submit that the case has been foisted on the petitioner and the other accused; that the occurrence did not take place in the manner alleged by the prosecution; that there are several infirmities and contradictions in the evidence of the eyewitnesses; that PW1, PW2, PW3, PW5, PW7 and PW8 were examined as eyewitness, amongst whom, PW5 is a hearsay witness; that PW7 and PW8 were disbelieved by the trial Court; that PW3 turned hostile and the case rests on PW1 and PW2; that PW1 and PW2 also cannot be believed as they were closely related to the deceased; that they have not taken the deceased to the hospital; that the police were present at the scene of occurrence even before the FIR was lodged; and that in any case, PW1 was disbelieved by the trial Court as regards her version about all other accused and hence, the trial Court ought not to have believed her version only in respect of the petitioner and prayed for suspension of sentence.



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6. Heard the learned counsel for Government of Tamil Nadu (Criminal Side), who on his part would submit that the trial Court had correctly appreciated the evidence of PW1 and believed a portion of her evidence to convict the petitioner as the *overt act* attributed to the petitioner corresponds to the injury sustained by the deceased as could be seen from the evidence of the Doctor [PW12] and prayed for dismissal of the petition.

7. We have perused the records.

8. As pointed by the learned senior counsel for the petitioner, we find that PW3 turned hostile; that PW5 had admitted that she had not witnessed the occurrence; that PW7 and PW8 were disbelieved by the trial Court; and that a substantial portion of PW1's evidence was disbelieved by the trial Court as regards the role played by the other accused viz., A2 to A29.

9. Admittedly, PW1 did not take the deceased to the hospital. The presence of the police at the scene of occurrence much before the



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complaint was lodged is also admitted by the witnesses. Therefore, the complaint could not have been the first information.

10. In the light of the above facts, it has to be examined during the final hearing of the appeal as to whether PW1 could be believed only in respect of the role of the petitioner. The petitioner has raised substantial grounds in the appeal to doubt the veracity of PW1. The appeal is not likely to be taken up in the near future.

11. Therefore, considering all the above facts and the fact that the petitioner is in custody from the date of judgment i.e., 08.01.2025, we are inclined to grant the relief of suspension of sentence to the petitioner herein.

12. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentences imposed on the petitioner are suspended on the following conditions:

- (i) the petitioner shall execute a bond for a sum of Rs.25,000/-, with two independent sureties, each for a like sum to the satisfaction of the learned Additional



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District and Sessions Judge, Dharmapuri.

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- (ii) The petitioner and 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 and mobile numbers to ensure their identity; and
- (iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if they are not able to appear before the trial Court on any day, they 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 their absence, as directed by the trial Court.

(A.S.M.,J.) (S.M.,J.)
30-07-2026

Note: Issue order copy today.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No



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**DR.ANITA SUMANTH, J.
AND
SUNDER MOHAN, J.**

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To

1. The Additional District and Sessions Judge,
Dharmapuri.
2. The Inspector of Police,
Pennagaram Police Station,
Dharmapuri District.
3. The Superintendent of Prisons,
Central Prison, Salem.
4. The Public Prosecutor
High Court of Madras.

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