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Crl.M.P.No.12511 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2026

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl. M.P. No. 12511 of 2026

in

Crl. A. No. 871 of 2026

1.Prabakaran

2.Venkatesan

... Petitioners

Vs.

The State,

Represented by Inspector of Police,

Avalurpet Police Station,

Villupuram.

(Crime No.1816 of 2020)

... Respondent

To suspend the sentence of imprisonment made in the judgment dated 16.06.2026 passed in S.C.No.448 of 2021 by the learned Sessions Judge, Magalir Neethi Mandram, Villupuram and enlarge the petitioners/appellants on bail, pending disposal of the above criminal appeal.

For Petitioners : Mr. Leonard Arul Joseph Selvam
for M/s. Arulselvam Associates

For Respondent : Mr. Durai Gunasekaran,
Government Advocate (Crl.Side)
Assisted by Mr. M. Arul Raj



ORDER

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The petitioners / A2 and A3 were convicted by the trial Court in S.C.No.448 of 221 by judgment dated 16.06.2026 and sentenced to pay a fine of Rs.1000/- each for offence under Section 294(b) IPC, in default one month simple imprisonment and to pay a fine of Rs.500/- each for offence under Section 341 IPC, in default one month simple imprisonment. Further, for the offence under Section 326 IPC, both A2 and A3 were sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.5,000/- each, in default, three months simple imprisonment. In addition, A2 was convicted for the offence under Section 4 of the TNPWH Act and sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.10,000/-. Aggrieved by the said judgment of conviction and sentence, the present petition has been filed.

2. The contention of the petitioners is that the petitioners and the defacto complainant / PW1 are relatives and that there exists a property dispute between them. It is projected as though on 19.09.2020, PW1 was waylaid, abused and assaulted by the petitioners along with A1, Govindasamy, the father of the 1st petitioner, who died during the pendency



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of the trial. After the occurrence, PW1 returned home without lodging any complaint but she informed her sister, PW2, her brother's son, PW3, her brother-in-law, PW4 and PW5, friend of PW4.

2.1. It is the further case of the prosecution that, on 21.09.2020, PW2 to PW5 visited PW1 to enquire about the incident that had occurred on 19.09.2020. However, no such enquiry was made with the petitioners. But it has been later projected that, while PW2 to PW5 were returning at about 5.30 p.m., near the Pilliyar temple, which is 500 metres from the house of PW1, the petitioners questioned PW4 and PW5 and assaulted them in the presence of PW2. Thereafter, PW2 took PW4 and PW5 to the hospital, where the Casualty Medical Officer examined them and X-rays and scans were taken. Subsequently, PW4 was referred to CMC Hospital and PW5 to Rajiv Gandhi Government General Hospital, Chennai. On the complaint by PW1, the case has been registered.

3. The learned counsel for the petitioners submitted that there are contradictions in the evidence of Pws.1 to 5 with regard to the place of occurrence and the overt acts attributed to the accused. It was further submitted that no doctor from either Rajiv Gandhi Government General



Hospital or CMC Hospital was examined to prove the treatment given to Pws.4 and 5. Further, no X-ray and scan report or any other medical record produced to confirm Pws.4 and 5 sustained grievous injuries. PW9 is the only doctor who was examined, through whom Exs.P7, P8 and P9, namely, Accident Register copy of Pws.1, 4 and 5, alone marked. Therefore, it was contended that the conviction under Section 326 IPC is unsustainable.

4. The learned Government Advocate opposed the petitioner's contention and submitted that A1 to A3 had attacked PW1 on 19.09.2020. PW1 was taken to the hospital on the very same day, where PW9 examined her and issued Ex.P7, Accident Register. Since the injuries sustained by PW1 were not serious, she did not immediately lodge a complaint. However, she informed her sister, PW2, her sister's husband, PW4, her brother's son, PW3 and PW5. On 21.09.2020, Pws.2 to 5 came to enquire with A1 to A3 regarding the earlier occurrence. While they were returning at about 5.30 p.m., on two wheeler, PW4 and PW5 were waylaid and assaulted. PW2 who had come there, seen the assault. PW4 and PW5 were brutally attacked with a wooden log and were immediately taken to the hospital, and PW9, the Casualty Medical Officer, examined them and issued Exs.P8 and P9, the



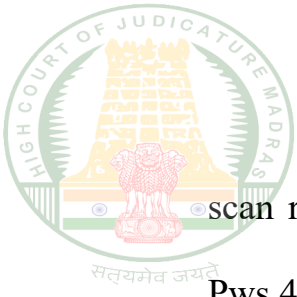
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accident registers, confirming injuries sustained by them were grievous in nature. Pws.2 to 5 are the eyewitnesses to the occurrence on 21.09.2020, and PW1 has clearly spoken about the earlier occurrence on 19.09.2020. Pursuant to the arrest and confession of the accused, the wooden log and other material objects recovered. The medical evidence corroborates the ocular evidence. Therefore, it was submitted that the trial Court had rightly convicted the accused.

5. In reply, the learned counsel for the petitioners submitted that PW6, son-in-law of PW1 and PW7, the brother of PW1, both not supported the prosecution case. Hence, the confession and recovery not proved.

6. Considering the submissions and on perusal of the materials, this Court finds that the petitioners have been convicted for the offences under Sections 294(b) and 341 IPC and given fine sentence. Further, A2 has been convicted under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act and sentenced to undergo rigorous imprisonment for two years.

7. As regards the conviction under Section 326 IPC, no X-ray report,



scan report or any medical records produced. Further, doctors who treated Pws.4 and 5 at CMC Hospital and Rajiv Gandhi Government General Hospital not examined. In the absence of such evidence, the conviction under Section 326 IPC solely on the evidence of PW9 and based on Accident Register is not proper, hence requires reconsideration.

8. With regard to the conviction under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, the alleged occurrence is stated to have taken place on 19.09.2020, when PW1 was abused. However, the complaint was not lodged on the said date but only on 21.09.2020. There is no explanation given for the delay. Further, at the time of the alleged occurrence on 19.09.2020, no independent witness present. Therefore, the conviction under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act also requires reconsideration.

9. In view of the above, this Court is of the considered view that the conviction of the petitioners requires reconsideration and that the appeal raises arguable points requiring consideration. Therefore, this Court is inclined to grant the relief of suspension of sentence to the petitioners.



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10. Accordingly, the substantive sentence of imprisonment imposed on the petitioners is suspended till the disposal of the appeal and they are ordered to be enlarged on bail, on condition that they shall execute a bond for a sum of Rs.5,000/- each (Rupees Five thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

11. On breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in *P.K.Shaji vs. State of Kerala* [(2005)AIR SCW 5560];

12. Further, the petitioners shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, until the disposal of the appeal and if they are not able to appear before the Trial Court on that 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.



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13. Accordingly, this Criminal Miscellaneous Petition is ordered.

23.07.2026

Neutral Citation: Yes/No
AT

Note: Issue order copy on 24.07.2026

To

- 1.The Sessions Judge, Magalir Neethi Mandram, Villupuram.
- 2.The Inspector of Police,
Avalurpet Police Station,
Villupuram.
- 3.The Central Prison,
Cuddalore.
- 4.The Public Prosecutor,
High Court of Madras.



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M.NIRMAL KUMAR, J.

AT

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