



WEB COPY



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.07.2026

Pronounced on : 29.07.2026

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026

Dr.N.Rajkumar

... Petitioner in
Crl.M.P.No.13238 of 2026

Mohan @ Mohanachandran

... Petitioner in
Crl.M.P.No.13241 of 2026

Vs.

State rep. by
The Inspector of Police,
Tiruchengode Town Police Station,
Namakkal District.
(Crime No.466 of 2002)

... Respondent in
both Crl.M.Ps

COMMON PRAYER: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, to suspend the sentence imposed by the learned II Additional District and Sessions Judge, Tiruchengode in S.C.No.108 of 2019 dated 15.07.2026 and enlarge the petitioners on bail pending disposal of criminal appeals.



WEB COPY



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

For Petitioner
in both Crl.M.Ps : Mr.Abudukumar Rajarathinam
Senior Counsel
for Mr.S.Ashok Kumar

For Respondent
in both Crl.M.Ps : Ms.Sharada Vivek
Government Advocate (Crl. Side)

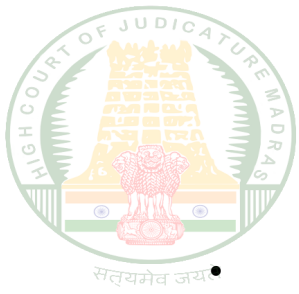
COMMON ORDER

Crl.M.P.No.13238 of 2026 in Crl.A.No.902 of 2026 is filed by A1 and
Crl.M.P.No.13241 of 2026 in Crl.A.No.903 of 2026 is filed by A4.

2.For the sake of convenience and clarity, the petitioners are referred
to as per their ranking in the Trial Court.

3.The conviction and sentence imposed on the petitioners/A1 and A4
are as follows:

- For offence under Section 450 IPC, A1 and A4 sentenced to undergo
five years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default
to undergo three months simple imprisonment



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

WEB COPY

• For offence under Section 395 IPC, A1 and A4 sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default to

undergo three months simple imprisonment

- For offence under Section 342 IPC, A1 sentenced to undergo three months simple imprisonment.
- For offence under Section 342 IPC, A1 sentenced to undergo three months simple imprisonment.
- For offence under Section 342 r/w. 149 IPC, A4 sentenced to undergo three months simple imprisonment.

All the sentences to run concurrently. Against which, the present appeals and suspension of sentence petitions filed.

4.The brief facts of the case is that the defacto complainant one Pandurangan of Tiruchengode is running an iron shop, in the year 1997 he obtained loan from A1 and he mortgaged his house to A1, further executed a Power of Attorney in favour of A1. Since the loan amount not repaid, A1 converted the said house of defacto complainant to his own by virtue of the power of attorney, a civil suit in respect of the house property between the



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

WEB COPY

petitioner and defacto complainant, hence there was animosity between them. A2 to A38 are friends and henchmen of A1. On 02.06.2002 at about 11.00 p.m., when defacto complainant was in his house with family members, the accused armed with deadly weapons came in three vehicles, 407 Tempo Van, Ambassador car and Maruthi van, forcibly broke opened the door, committed house trespass by entering into the house of Pandurangan and committed dacoity by taking away household articles valued around Rs.5 lakhs using 407 Tempo Van. During the dacoity, the accused confined the defacto complainant and the inmates of the house and committed extortion and forced the defacto complainant to sign in blank green papers and caused injuries to the witnesses PW1, PW2 and PW4. They committed criminal intimidation to defacto complainant and the witnesses present there and threatened them to death if they disclosed to anybody. Thereafter, the defacto complainant went to Tiruchengode Police Station and lodged a complaint, FIR registered in Crime No.466 of 2002 under Sections 450, 395 and 342 of IPC. On completion of investigation, charge sheet filed. During trial, PW1 to PW15 examined, Ex.P1 to Ex.P74 marked, MO1 to MO40 produced, Ex.C1 and Ex.C2 marked. On conclusion of trial, the Trial Court convicted the petitioners as stated above.

Page No.4/19



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

WEB COPY

5.As regards A1, the learned senior counsel submitted that it is projected that at the instance and instructions of A1, the other accused evicted the defacto complainant from the house and removed the household articles. Even if the entire prosecution case is accepted, then also no offence of dacoity punishable under Section 395 IPC is made out. The Trial Court erred in convicting the petitioner when the essential ingredients of dacoity as per Section 391 IPC conjointly read together is not made out. In this case, there totally 26 accused tried, some died, out of which 13 accused charged finally, A1 to A6 convicted. The Trial Court convicted the petitioners on the basis of a casual and random identification made by the witness in the Court. No test identification parade conducted in this case. He further submitted that in this case, PW1 to PW5 are family members of defacto complainant and PW7 to PW9 are neighbours, their evidence highly doubtful. From the confession, no recovery made. The recovered articles is said to be strewn all over the place in open near a burial ground. Hence, there is no concealment and recovery based on the confession. He further submitted that PW1 to PW5, family members of the defacto complainant admit that Pandurangan was doing business and he obtained loan from A1, who is also having a

Page No.5/19



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

WEB COPY

financial concern and the loan was to be repaid within a period of 3 years which the defacto complainant failed to repay. The defacto complainant executed documents and power of attorney. Using the said power of attorney, the property was sold, for which a civil case filed. This being so, it has been projected as though at the instance of the petitioner, the other accused were instigated, entered and committed the offence of dacoity. The injury sustained is also superfluous and the injured person not rushed to the hospital immediately, but only after the advice of the police they went to the hospital. In this case, the defacto complainant died even before the trial, hence he could not be examined as a witness. PW1 admits a civil suit in O.S.No.308 of 1999 before the District Munsif Court, Tiruchengode filed and obtained an injunction in I.A.No.1421 of 1999. Now, the civil suit attained finality and the case is at the execution stage. Further, a partition suit filed in O.S.No.151 of 2004 before the Additional District Court, Namakkal and the same was dismissed on 01.03.2006.

6.He further submitted that PW2, brother of PW1 admits that a case was registered at the instance of the petitioner by District Crime Branch, Namakkal against Pandurangan, who was arrested and was in jail. PW1,
Page No.6/19



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

WEB COPY

PW2 and others obtained anticipatory bail in that case. The primary

allegation against A1 is that he brought henchmen and musclemen, forced the defacto complainant Pandurangan to sign in blank green papers and to evict him from the property. PW3, another son, reiterates the statement given by PW1 and PW2 and confirms the loan obtained by his father from A1 and failed to repay the loan. PW4, daughter of defacto complainant and sister of PW1 to PW3, confirms the loan of her father. PW5, husband of PW4 also confirms the loan particulars. PW1 to PW5 given a parrot-like version of the incident which is said to have taken place on 02.06.2002 PW6 and PW7 are neighbours of Pandurangan, not supported the case of the prosecution and declared hostile. PW8 a passer-by, found a crowd standing near the Pandurangan's house and he was declared hostile. PW9 and PW10 Village Administrative Officers, who speak about the arrest, confession and recovery, they were also declared hostile. PW11 to PW13 also declared hostile. PW14 is the Doctor who treated PW1 and PW2. PW15 is the Investigating Officer. Thus, in this case, except the family members of Pandurangan, namely PW1 to PW5 who are motivated witnesses, given an exaggerated version for a civil dispute and for forcing the Pandurangan to vacate the property which was settled for the loan obtained by the defacto

Page No.7/19



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

WEB COPY

complainant. Thus, a civil case has been magnified and given a criminal colour. He referred to the judgment of the Apex Court in the case of ***Mohammed Wajid and another vs. State of U.P. and others*** reported in ***2023 SCC Online SC 951*** and submitted that in an identical situation the Apex Court considered the import on Sections 390, 391 and 395 IPC and highlighted conditions attracting offence of dacoity, and observed attempts to cause to any person death or hurt or wrongful restraint or fear of instant death or instant hurt or instant wrongful restraint must be “for that end”. In this case, the admitted position is that the accused went to the defacto complainant’s house to vacate the squatters on the property and not for any robbery or causing robbery. Thus “for that end” will be the factor to decide, whether the Act would amount to dacoity or otherwise. Thus from the facts of the above case, the primary object is only to forcibly evict Pandurangan squatting on the property.

7.The learned senior counsel relied upon the judgment of the Apex Court in the case of ***Aasif @ Pasha vs. The State of U.P and others*** reported in ***2025 SCC Online SC 1644***, wherein the Apex Court relying upon various judgments reiterated the principles of law in granting suspension of sentence

Page No.8/19



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

WEB COPY

and bail and held that unless prima facie satisfaction could be drawn on the face of the record and if conviction may not be sustainable and in such cases, bail can be granted. He further relied upon the judgment of the Apex court in the case of *National Legal Services Authority vs. Union of India and others* reported in *2026 SCC Online SC 1341* for the point that liberal and human approach for bail of prisoners of advanced age or prisoners suffering from serious illness to be adopted. The petitioner is about 79 years old and he is in precarious state of health having done multiple surgeries, of which two were for Cancer and one for removal of gall bladder and he also undergone Angiogram.

8.As regards the petitioner/A4, the learned senior counsel submitted that for the first time, he was identified in the Court after 24 years of the occurrence by PW1 to PW3. PW4 and PW5 failed to identify him, no identification parade conducted in this case and the only overtact against A4 is that his Maruthi Omni van bearing registration No.TN-28-F-7700 was used in commission of the offence. In this case, the defacto complainant, Investigating Officer, all died even before they could be examined before the Trial Court and the petitioner's valuable right to confront and cross-examine

Page No.9/19



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

WEB COPY

the material witness under section 138 of the Indian Evidence Act was thereby extinguished. The inordinate delay of more than 24 years in the conduct and conclusion of the trial by itself infringed the petitioner's fundamental right to a fair and speedy trial guaranteed under Article 21 of the Constitution of India. The petitioner runs a medical shop and it is the only source of his livelihood. The petitioner and his wife were deeply affected due to their demise of their son. Hence prayed for bail.

9.The learned Government Advocate (Crl. Side) strongly opposed the petitioners' contention by filing a counter affidavit and submitted that based on the above complaint, a case was registered in Thiruchengode Town Police Station, Namakkal District, in Crime No.466 of 2002, U/s, 450, 395, r/w.397, 394 & 506 (ii) IPC against all the accused on 03.06.2002 at about 09.00 hours by the then Inspector of Police, and took up the case for investigation. During the course of investigation, the then Investigation officer went to the scene of occurrence and drew rough sketch and prepared observation mahazar in the presence of witnesses and examined the defacto complainant and other witnesses and recorded their statements. After



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

WEB COPY

completion of investigation, altered the offences and filed a charge sheet before the learned Judicial Magistrate Court, Tiruchengode and the same is taken on file vide P.R.C. No.22 of 2003. Later the case is committed before the learned II Additional District and Sessions Judge, Tiruchengode vide S.C. No. 108 of 2019. The Trial Court framed charges against the accused. During trial, the prosecution has examined 15 witnesses [PW1 to PW15], marked 74 exhibits and 40 material object were marked. On defence side, no witnesses, no exhibits and no material object were marked. The list of prosecution witnesses are as follows:

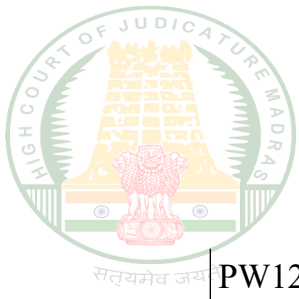
PW1	Sabareeswaran – Injured eye-witness; Son of deceased defacto complainant Pandurangan	Spoke about the occurrence, unlawful assembly, house trespass, assault, wrongful confinement, extortion of signatures, robbery of jewels and cash, damage to household articles and identified A1 Rajkumar, A2 Sivakumar, A4 Senthil, Thiagarajan, Mohan, Vazhakkai Kannan, Kumar and Seenivasan. Identified the signature of deceased Pandurangan in the complaint. Exhibit: Ex.P1 (signature of deceased in complaint).
PW2	Raja – Injured eye-witness	Corroborated the occurrence and identified accused Thiagarajan, A1 Rajkumar, A2 Sivakumar, A4 Senthil, Mohanasundaram, A5-Kamal @ Seenivasan, A6-Sakthi @ Sathiyamoorthi, A8-Vazhakkai Kannan and A31-Minnalkumar.



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

WEB COPY

PW3	Selvam – Eye witness	Narrated the entire occurrence and identified A1 Rajkumar, A2 Sivakumar, A4 Senthil, Thiagarajan and Mohan.
PW4	Selvambigai – Eye witness/Victim	Spoke about the occurrence, assault, confinement and identified accused A1-Rajkumar, A2 Sivakumar and A3-Senthil.
PW5	Senthilkumar – Eye-witness/Victim	Corroborated the prosecution case regarding trespass, assault, confinement and identified accused Rajkumar, Sivakumar and Senthil.
PW6	<u>Raju @ Selvaraj</u> – Corroborative witness	Corroborated the testimony of PW1 to PW5 regarding the occurrence.
PW7	Sukumaran – Corroborative witness	Supported and corroborated the evidence of PW1 to PW5.
PW8	Muthurajan – Corroborative witness	Corroborated the prosecution version regarding the incident.
PW9	Manimaran – Village Administrative Office (VAO); Witness for arrest, confession and recoveries.	Spoke about the arrests of several accused, recording of admissible portions of confession statements and recoveries effected pursuant thereto. Ex.P2 to Ex.P26 (Admissible portions of confession statements and seizure mahazars). Material Objects: PMO16 to PMO40 (Aruvals, wooden logs, iron pipe, tape recorder and other recovered articles).
PW10	Kumaresan – Village Administrative Officer	Witness to the arrest of A1 Dr. Rajkumar and Mohanachandran, admissible confession of A1 and recovery of house keys. Exhibits: Ex.P27 (Admissible portion of confession), Ex.P28 (Seizure Mahazar). Material Objects: PMO13, PMO14 & PMO15 (House keys and connected recovered articles).
PW11	Anandaraj – Corroborative witness	Corroborated the evidence of PW1 to PW5 regarding the occurrence.

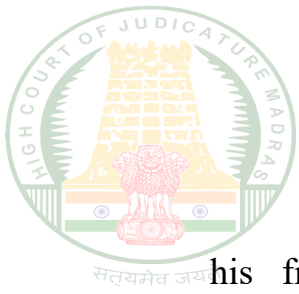


*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

PW12	Kandasamy Witness to arrest and recovery	Spoke about the arrest and recovery from accused Ramesh, Selladurai, Babu, Vasanth @ Vasantheeswaran and Ravi.
PW13	Ravi – Attesting witness	Attesting witness for the confession statement and recovery made pursuant to the confession of accused Raju.
PW14	Dr. Senthilkumar – Medical Officer (Additional witness)	Deposed based on hospital records since Dr. Ramasamy had died. Spoke about treatment given to injured PW1 and PW2, noted simple injuries proved vide wound certificate. Exhibits: Ex.P40 & Ex.P41 (Wound Certificates).
PW15	Tmt. S. Valarmathi, Inspector of Police – Additional Investigation Officer	Deposed on the basis of official records since the original FIR registering officer and Investigating Officers had died. Identified their signatures and proved registration of FIR, investigation records, observation mahazar, rough sketch, Form-95s, confession-related records, seizure mahazars and filing of final report. Ex.P42 (Complaint), Ex.P43 (FIR), Ex.P44 (Observation Mahazar), Ex.P45 (Rough Sketch), Ex. P46 to Ex.P74 (Form-95, admissible portions of confession statements, seizure mahazars and connected investigation records). Material Objects: Identified all recovered Material Objects (PMOs) based on records.

10. She further submitted the prosecution proved the case against the accused beyond reasonable doubt through the evidence of PW1 to PW5 who are present at the at the time of occurrence and also injured witness. A1 led

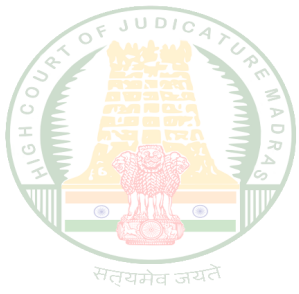
Page No.13/19



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

WEB COPY

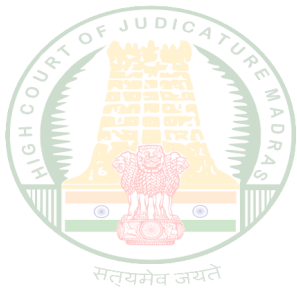
his friends and musclemen trespass into the house of the defacto complainant wrongfully confining the inmates and gave instruction to the other accused to remove all the household articles, compelled the victims to sign in blank green papers putting them under threat of life. The registration of FIR, recovery of material objects based on the confession of the accused confirm the accused active role in committing the offence of dacoity. She further submitted that since the examination of witnesses were decades after the offence there bound to be some minor discrepancy. A1 is a known person, often visiting the house of PW1 to PW5, forcing and threatening Pandurangan to move out of the property. Since Pandurangan filed a civil suit and resisting forcible eviction, A1 devised a plan, brought in musclemen and committed the offence. Since the accused are known person, test identification parade is not required. Further, identifying the accused in the docks is permitted during cross-examination, no serious infirmity or dispute in identity raised. In this case, A1 to A9 convicted under sections 450, 395 and 342 IPC. The Trial Court on the materials and evidence produced had rightly convicted the accused.



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

WEB COPY

11.Considering the submissions made and on perusal of the materials, it is seen that Pandurangan, father of PW1 to PW4 obtained loan from A1 and failed to repay the same. A1 obtained power of attorney and signature in bond papers by compulsion and using the same, settled the property amongst his family members, A1 forcing Pandurangan to vacate the property, all are not in dispute. A civil suit filed by Pandurangan in O.S.No.308 of 1999 before the District Munsif Court, Tiruchengode not to disturb his peaceful possession. He also filed a partition suit for the same property knowing well that already a civil suit is pending seeking injunction and declaration against A1 who is claiming right over the property. It is also seen that Pandurangan was arrested by District Crime Branch on a complaint given by A1. Thus, there was animosity between the A1 and Pandurangan and his family members. Thus, A1 used force to vacate Pandurangan and his family, at that time, the alleged occurrence is said to have taken place primarily to vacate Pandurangan from the property. In view of the above factual position, it cannot partake the definition of robbery, extortion and dacoity.



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

WEB COPY

12.The Apex Court in the case of ***Mohammad Wajid*** had stressed the importance of “for that end” confirming that it is not means but the object of committing of the act is the requirement. Further there are arguable points involved in these appeals and it would take some time for the appeals to be taken up for final hearing, both accused are senior citizens, A1 is with serious health ailments underwent surgery and under constant medication, hence, this Court is inclined to suspend the sentence imposed on the petitioners.

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

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



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

they shall make arrangements to file an application under Section 317

WEB COPY

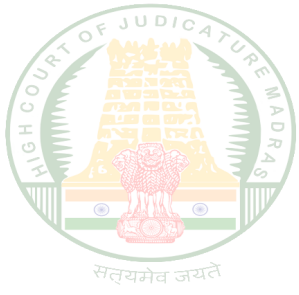
Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of their absence as directed by the Trial Court.

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

16. Accordingly, this Criminal Miscellaneous Petitions are ordered.

29.07.2026

cse

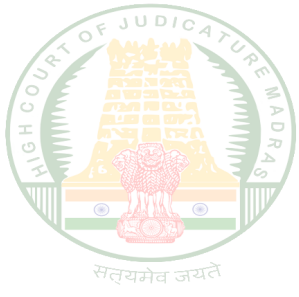


*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

WEB COPY

To

- 1.The Inspector of Police,
Tiruchengode Town Police Station,
Namakkal District.
- 2.The II Additional District and Sessions Judge,
Tiruchengode.
- 3.The Superintendent,
Central Prison,
Salem.
- 4.The Public Prosecutor,
High Court, Madras.



WEB COPY



*Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026*

M. NIRMAL KUMAR, J.

cse

Pre-delivery order made in

Crl.M.P.Nos.13238 & 13241 of 2026
in Crl.A.Nos.902 & 903 of 2026

29.07.2026