



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2022

CORAM

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.Nos.1204 of 2022, 4586 of 2021 & 8522 of 2020

in

Crl.A.Nos.524 of 2020 & 159 of 2021

1. Kailasam
2. Nithyanad
3. Suresh
4. Thangadurai
5. Meenu @ Murugan
6. Ravi

... Petitioners in Crl.M.P.Nos.1204 of 2022
& 8522 of 2020

Veda @ Devagreeswaran

S/o. Kuppusamy

(Amendment ordered vide Crl.M.P.No.1206 of 2022
dated 03.02.2022)

... Petitioner in Crl.M.P.No.4586 of 2021

Vs.

- 1.State Represented by,
The Inspector of Police,
Namagiripettai Police Station,
Namakkal District. (Crime No.615 of 2010)

2. Murugesan ... Respondents in both Crl.M.P.'s

PRAYER in Crl.M.P.No's.1204 of 2022 & 4586 of 2021: The Criminal Miscellaneous Petitions are filed under Section 389(1) & 482 of the Code of Criminal Procedure, pleaded to suspend the sentence imposed in C.A.No.92 of 2019 passed by the Principal Sessions Judge, Namakkal, dated 16.10.2020 and enlarge the petitioners on bail.

For Petitioners : In Crl.M.P.No.1204 of 2022
Mr.R.Sankarasubbu
In Crl.M.P.No.4586 of 2021
Mr.A.J.Mohamed Kassim

For Respondents R1 : Mr.S.Sugendran
Government Advocate (Crl.Side)

R2 : Mr.P.Ezhil Nilavan



COMMON ORDER

(This case has been heard through Video Conferencing)

These Criminal Miscellaneous Petitions have been filed by the petitioners/appellants, seeking suspension of sentence of imprisonment, imposed against the petitioners in C.A.No.92 of 2019 dated 16.10.2020 by the learned Principal Sessions Judge, Namakkal.

2. In and by the judgment of the Trial court, the petitioners were found guilty and convicted and sentenced as follows:-

S.No .	Accused	Offence u/s	Conviction & Sentence
1.	A1 to A7	447 IPC	3 months imprisonment each and to pay a fine of Rs.1,000/-, in default, undergo one month S.I.
2.	A1	294 (b) IPC	3 months imprisonment each and to pay a fine of Rs.1000/-, in default, undergo one month S.I.
3.	A1 & A2	323 IPC	One year imprisonment each and to pay a fine of Rs.1000/-, in default, undergo two months S.I.
4.	A3 to A7	323 (2 counts) IPC	One year imprisonment each for two counts and to pay a fine of Rs.1000/, in default, undergo two months S.I.
5.	A1 to A7	342 IPC	One year imprisonment each and to pay a fine of Rs.1000/, in default, undergo two months S.I.
6.	A1 to A7	365 IPC	Seven years imprisonment each and to pay a fine of Rs.1000/, in default, undergo six months S.I.
7.	A3 to A7	147 IPC	Two years imprisonment each and to pay a fine of Rs.1000/, in default, undergo two months S.I.

against which, the present Criminal Appeals have been filed.

3. The submissions of Mr.R.Sankarasubbu, learned counsel appearing for the petitioners 1 to 6 in CrI.M.P.No.1204 of 2022 are as under:-

(a) The case was registered by the Respondent/Police in Crime No.615 of 2010 against the petitioners/accused and it was taken on



the file of the learned Judicial Magistrate, Rasipuram, in C.C.No.9 of 2015. The Trial Court, after fullfledged trial, acquitted the petitioners / accused vide order dated 31.07.2019 and the State did not prefer any appeal as against the order of acquittal, however, the defacto complainant preferred the appeal in C.A.No.92 of 2019 on the file of the Principal Sessions Judge, Namakkal and the Appellate Court, by an order dated 16.10.2020, reversed the order of the acquittal and finding the accused guilty and convicted and sentenced them as stated above.

(b) Against the judgment of conviction and sentence, the petitioner 1 to 6 preferred a criminal appeal in Crl.A.No.524 of 2020 before this Court and this Court, by an order dated 10.02.2021 had granted suspension of sentence to the petitioners 1 to 6 in Crl.M.P.No.8521 of 2020. Further, due to some miscommunication, the petitioners 1 to 6 were unable to instruct their counsel properly and thereby, when the matter was listed for hearing on 24.03.2021, there was no representation for the petitioners 1 to 6, due to which the bail granted was cancelled.

(c) Thereafter, the petitioners 1 and 2 surrendered before the Trial Court on 03.12.2021, 3rd petitioner, surrendered on 07.12.2021 and the petitioners 4 to 6 were arrested and remanded to judicial custody on 25.01.2022. The Trial Court, after fullfledged trial had found the accused not guilty and there is no perversity in the order passed by the Trial Court, whereas, the Appellate Court, without following the principles of law, while dealing with the appeal against the acquittal order has reversed the order of acquittal and the petitioners/accused were found guilty and convicted and sentenced as stated above.

(d) The petitioners/appellant has got a fair chance of succeeding in the Criminal Appeal. There are arguable points available in the Criminal Appeal. He would pray the sentence imposed against the petitioners/appellants may be suspended and the petitioners may be enlarged on bail and they are preferred to stringent condition and they are also ready to proceed with the appeal on any day fixed by this Hon'ble Court.

4. Mr.A.J.Mohamed Kassim, learned counsel appearing for the petitioner in Crl.M.P.No.4586 of 2021 would submit that the petitioner was arrayed as A7 in this case and he adopted the arguments of the learned counsel in Crl.M.P.No.1204 of 2022. He would reiterate that the petitioner/A7 was acquitted by the Trial Court and he would submit that this is the first application for suspension of sentence and the petitioner/A7 was arrested and he was in custody from 07.12.2021.



5. Mr.S.Sugendran, learned Government Advocate (Crl.Side) appearing for R1, would submit that the petitioners were acquitted by the Trial Court and the State did not prefer appeal against the order of acquittal, however, the de facto complainant had filed the appeal in C.A.No.92 of 2019 before the learned Principal Sessions Judge, Namakkal, and the Appellate Court reversed the order of acquittal and found the petitioners guilty and convicted and sentenced them as stated above.

6. Mr.P.Ezhil Nilavan, representing the learned counsel for the Respondent/de facto complainant in both the petitions would submit that the matter may be fixed for final hearing and he would object for grant of suspension of sentence.

7. Heard the learned counsel appearing for both the parties and perused the materials on record.

8. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioners/appellants, this Court is of the opinion that the petitioners had made out the case for grant of bail. Accordingly, the substantive sentence of imprisonment alone is suspended. The petitioners are directed to be enlarged on bail, on the following conditions :-

(a) Accordingly, the petitioners/appellants are ordered to be released on bail on condition to execute their own bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each before the Superintendent of the concerned prison/Jailor concerned, in which the appellants have been confined and thereafter, on their release, the petitioners/Appellants shall execute two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Rasipuram within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically and on further conditions that:

(b) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) The petitioners/appellants shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 am., until further orders.



8. Accordingly, the Criminal Miscellaneous Petitions
Crl.M.P.Nos.1204 of 2022 & 4586 of 2021 are ordered and
Crl.M.P.No.8522 of 2020 in Crl.A.No.524 of 2020 is closed.

-sd/-

03/02/2022

This order, on being produced, be punctually observed and carried
into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
RASIPURAM

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL(FOR INFORMATION)

3 THE PRINCIPAL SESSIONS
JUDGE, NAMAKKAL

4 THE INSPECTOR OF POLICE,
NAMAGIRIPATTI POLICE STATION,
NAMAKKAL DISTRICT

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SECRETARY
TAMIL NADU STATE LEGAL SERVICES AUTHORITY,
HIGH COURT, MADRAS

7 MR.L.RAMU
TAMIL NADU STATE LEGAL SERVICES AUTHORITY,
HIGH COURT, MADRAS

8 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.



9 THE SECTION OFFICER,
CRIMINAL SECTION, HIGH COURT, MADRAS.

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+2 C.C. to M/S.R.SANKARASUBBU Advocate on payment of necessary
charges Sr.No.1789

Order

in

Crl.M.P.Nos.1204 of 2022, 4586 of 2021& 8522 of 2020
in

Crl.A.Nos.524 of 2020 & 159 of 2021

Date :03/02/2022

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RVR 04/02/2022