



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

CORAM :

WEB COPY THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.4755 of 2022

in

Crl.A.No.392 of 2022

1. Vetri @ Vetriveran (M)
aged 24 years
S/o. Balakrishnan

2. Ram Kumar @ Kumar (M)
aged 28 years
S/o. Shanmugam

3. Ayyanar (M)
aged 31 years
S/o. Balakrishnan

... Petitioners

Versus

State rep. by
Inspector of Police,
Katterikuppam Police Station,
Puducherry.
(Crime No.26 of 2013).

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) (2) of the Code of Criminal Procedure to suspend the sentence imposed on the petitioners by judgment dated 16.02.2022 passed in S.C. No. 03 of 2016 on the file of the III Additional Sessions Judge, Puducherry and enlarge the petitioners on bail pending disposal of the criminal appeal.

For Petitioners : Mr.R. Alvin Manoj Raj

For Respondent : V. Balamurugane
Additional Public Prosecutor
(Pondicherry)



O R D E R

The above criminal miscellaneous petition has been filed to suspend the sentence imposed on the petitioners, who are accused Nos. 1 to 3, by judgment dated 16.02.022 in S.C. No. 03 of 2016 on the file of the III Additional Sessions Judge, Puducherry and enlarge them on bail pending disposal of the appeal.

2. Learned counsel for the petitioners would submit that in this case, eventhough the petitioners were charged under Sections 452, 302 & 323 r/w 34 IPC, the Trial Court found them guilty under Section 304 (II) r/w 34 IPC and sentenced each one of them to undergo rigorous imprisonment for a period of 7 years together with a fine of Rs.1000/-, in default to undergo 6 months rigorous imprisonment; found them guilty under Section 452 IPC and sentenced each one of them to undergo rigorous imprisonment for 3 years and to pay a fine of Rs.500/- carrying a default sentence of 6 months simple imprisonment and for the offence under Section 323 (1 count) r/w 34 IPC, each one of the petitioners was sentenced to undergo 6 months rigorous imprisonment.

3. Learned counsel for the petitioners would further submit that the evidence of P.W.s 1 and 2 in this case is questionable and only based on their testimony, the accused have been convicted. He would submit that consideration of very many grounds raised in the criminal appeal would reveal that the petitioners have got a prima facie case and unless and otherwise, this Court suspends the sentence, pending the appeal, the petitioners will be put to grave prejudice.

4. Per contra, learned Additional Public Prosecutor (Puducherry) would submit that as far as the first petitioner is concerned, he is a history sheeter and having six previous cases including one case under 302 IPC and three cases under Section 324 IPC. Therefore, he would submit that inspite of conditions imposed on him, the first petitioner is repeatedly involved in one offence or the other and in this case, there is ample evidence to convict all the three accused and the prosecution has proved the guilt without any doubt whatsoever and therefore, opposed the grant of prayer to suspend the sentence.

5. I have considered the rival submissions advanced on behalf of the learned counsel on either side. Perused the material records of the case.

6. Considering the antecedents of the first petitioner, namely, Vetri @ Vetriveran, I am not inclined to suspend the sentence and accordingly, the petition stands dismissed as far as the first petitioner/A1 is concerned.



7. As far as petitioners 2 and 3 are concerned/A2 & A3, considering the nature of allegations and considering the conviction by the Trial Court and the maximum sentence of 7 years imposed and the fact that they are under incarceration from 16.02.2022 onwards, I am inclined to suspend the substantive sentence of imprisonment imposed on them pending disposal of the appeal.

8. Accordingly, the substantive sentence of imprisonment imposed on petitioners 2 and 3 is hereby suspended and they are enlarged on bail on the following conditions:-

(a) petitioners 2 & 3 are ordered to be released on bail, on each of them executing a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the Trial Court;

(b) petitioners 2 and 3 and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhar Cards or Bank Pass books to ensure their identities;

(c) petitioners 2 & 3 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 Criminal 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 of 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.

9. This criminal miscellaneous petition is ordered accordingly.

-sd/-
16/06/2022

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

TRUE COPY

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



TO

1 III ADDITIONAL SESSIONS JUDGE,
PUDUCHERRY.

2 THE SUPERINTENDENT,
CENTRAL JAIL, KALAPET,
PUDUCHERRY.

3 THE INSPECTOR OF POLICE,
KATTERIKUPPAM POLICE STATION,
PUDUCHERRY.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.RRN LEGAL Advocate on payment of necessary
charges SR.NO. 9683

Order

in
CRL MP.4755/2022

in
Crl.A.No.392 of 2022

Date :16/06/2022

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RW-21/06/2022