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Crl.M.P.Nos.6427 & 6991 of 2022
in Crl.A.Nos.503 & 530 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.09.2022

PRONOUNCED ON: 27.09.2022

CORAM

THE HONOURABLE MR. JUSTICE **P.N.PRAKASH**

AND

THE HONOURABLE MR. JUSTICE **RMT.TEEKAA RAMAN**

Crl.M.P.Nos.6427 & 6991 of 2022

in

Crl.A.Nos.503 & 530 of 2022

Crl.M.P.No.6427 of 2022

1. Kalaivanan

2. Raja

.. Petitioners/A2 & A4

Vs.

State through its
The Inspector of Police,
Yercaud Police Station,
Salem District.
(Crime No.52 of 2016)

.. Respondent/Complainant

Crl.M.P.No.6991 of 2022

Subesh

.. Petitioner/A5

Vs.

State through its
The Inspector of Police,
Yercaud Police Station,
Salem District.
(Crime No.52 of 2016)

.. Respondent/Complainant



Crl.M.P.Nos.6427 & 6991 of 2022
in Crl.A.Nos.503 & 530 of 2022

Common Prayer: Criminal Miscellaneous Petitions filed under Section 389(2) r/w 439 of Cr.P.C. to suspend the sentence passed in S.C.No.279 of 2017 dated 13.12.2021, on the file of the learned Sessions Judge, Mahila Court, Salem.

For Petitioners	:	
Crl.M.P.No.6427/22		Mr.K.N.Nataraj
Crl.M.P.No.6427/22		Mr.C.Deepak Kumar
For Respondent	:	Mr.M.Babu Muthumeeran
in both Cases		Additional Public Prosecutor

COMMON ORDER

RMT.TEEKAA RAMAN, J.

The petitioners herein are the convicted accused Nos.2, 4 and 5.

2. The respondent police filed a charge sheet against these petitioners under Sections 120-B, 147, 148, 364(A) 384, 324 (2 counts), 342 and 506 (II) of IPC.

3. The case of the prosecution is as follows:

(i) A1 is an Advocate and also he was working as Reader in the Sub-Court, Sankari. The petitioners/appellants and other accused are close associates of A1. A1 is residing at Yercaud and the *de facto* complainant-Ashok Kumar [PW1] has borrowed as sum of Rs.1,50,000/- from A1 by



mortgaging his property by depositing his Title Deeds. Later, the *de facto* complainant has repaid the said amount to A1 in the presence of witness one Rex Stalin [PW6]. At that time, A1 with a *mala fide* intention, retained some of the important documents and returned the other documents to the *de facto* complainant-Ashok Kumar with an intention to grab his property.

(ii) Later, a few days prior to the date of occurrence A1 met A2-A5 and hatched a criminal conspiracy and asked the petitioners/appellants to kidnap the *de facto* complainant-Ashok Kumar and his mother Vasanthi, to obtain their signatures in blank stamp papers. Further, in pursuance of the said criminal conspiracy, on 11.03.2016, at about 9.30 p.m, the petitioners/appellants, along with A1 and other accused, formed into an unlawful assembly with a common object of committing rioting and kidnapped the *de facto* complainant-Ashok Kumar and his mother Vasanthi ,from their house and forcibly put them into car and shifted them to Thinnapatti Makkal Desa Katchi office and thereby, the petitioners/appellants and the other accused attacked them with an iron rod and obtained signatures and thumb impressions in 6 blank stamp papers from the *de facto* complainant-Ashok Kumar and his mother Vasanthi and caused criminal intimidation to them.



4. The prosecution examined 13 witnesses viz., PW1 to PW13, and marked 21 exhibits (Ex.P1 to Ex.P21) and 2 material objects [M.O.1 and M.O.2].

5. After trial, the learned Sessions Judge, Mahila Court, Salem, *vide* judgment dated 13.12.2021 in S.C.No.279 of 2017, convicted the accused and sentenced them. The sentences imposed upon the Accused Nos.2, 4 and 5 / petitioners herein are as follows:

<i>Accused No.</i>	<i>Offence</i>	<i>Sentence</i>
A2	120B	Undergo RI for life along with fine of Rs.1,000/- in default RI for 1 year.
	148	Undergo RI for 3 years.
	364(A)	Undergo RI for life along with fine of Rs.1,000/- in default RI for 1 year.
	384	Undergo RI for 3 years.
	324	Undergo RI for 3 years.
	342	Undergo RI for 1 year.
	506(II) IPC	Undergo RI for 7 years
A4 & A5	120B	Each of them have to undergo RI for life along with fine of Rs.1,000/- in default RI for 1 year.
	147	Each of them have to undergo RI for 2 years.
	364(A)	Each of them have to undergo RI for life along with fine of Rs.1,000/- in default RI for 1 year.
	384	Each of them have to undergo RI for 3 years.



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<i>Accused No.</i>	<i>Offence</i>	<i>Sentence</i>
323 (2 counts)		Each of them have to undergo RI for 1 year for each count
342		Each of them have to undergo RI for 1 year.
506(II) IPC		Each of them have to undergo RI for 7 years

The above sentences were directed to run concurrently

6. Aggrieved against the said conviction and sentence, accused 2 and 4 have filed Crl.A.No.503 of 2022, while Accused No.5 has filed Crl.A.No.530 of 2022 along with Criminal M.P.Nos.6427 & 6991 of 2022, respectively, seeking suspension of sentence, pending appeals.

7. Learned counsel for the petitioners [A2 & A4] in Crl.M.P.No.6427 of 2022 would contend that there is a delay in registering the FIR and there is inconsistency in the finding regarding the charges and there is no eyewitnesses to the said occurrence and to wreck vengeance in the dispute which is civil in nature, PW1 and PW2 have deposed against the petitioners by foisting a case and their version ought to have been held as unreliable and also stated that the finding rendered by the trial Court is not in consonance with the settled propositions for the offence under Section 120-B of IPC.



8. Learned counsel appearing for the petitioner [A5] in

Crl.M.P.No.6991 of 2022 would contend that in view of the answer elicited in the cross examination of PW1 about Ex.D1-agreement, the statement of PW6-Rex Stalin and the execution of Ex.D2-Sale deed in favour of one person by name Josephine Buleah, with regard to part of the land, the trial Court ought to have disbelieved the evidence of PW1 and the next contention is Ex.P16-FIR is a second FIR and the trial Court has not properly appreciated the evidence. He also contended that no call details report has been filed by the prosecution.

9. Heard the respective learned counsel appearing for the petitioners/accused and the learned Additional Public Prosecutor, appearing for the respondent police and perused the materials available on record.

10. Prosecution has come forward with the definite case that a few days prior to the date of occurrence, A1 who was an Advocate and now working as a Reader in the Sub Court, Sankari, met A2 and A5 at the Salem Court and entered into a criminal conspiracy to do certain acts and to abduct the witnesses Ashok Kumar and his mother Vasanthi and with an aim to obtain the signature on blank stamp papers, by exercising force and instilling



fear in their mind with a view to grab their property and in furtherance thereof, on 11.03.2016, they formed themselves into an unlawful assembly with a common object of committing rioting and kidnapping of the above said witnesses from their house situated in Mel Alagapuram, Yercaud and A2 was armed with an iron pipe and also kidnapped them in the Honda car bearing Regn.No.TN09T4127 belonging to the witness-Igramullah, the owner of A3. PW1 and PW2 are the injured witnesses who are subjected to kidnapping with an object to get their signature by force and coercion in an isolated place, so as to swallow their property.

11. The evidence of injured witnesses PW1-Ashok Kumar and PW2-Vasanthi has been taken note of by the trial Court with a special discussion on Ex.P2 series, wherein the accused obtained the signature and thumb impression of PW1 in more than 15 to 20 places and he was also subjected to injury by use of M.O.2-Iron pipe. PW2 has also given a specific statement with regard to the blank promissory note taken from her son-PW1 by A1 and subsequently, filed a civil suit against PW1 by misusing the blank promissory notes and filed a suit for recovery of money before Sub Court, Sankari, through one Anusuya and PW3 and PW4 are hearsay witnesses.



12. The trial Court has also taken note of the evidence of PW6-Rex Stalin and exhibits viz., Ex.P2, three green colour blank papers containing the signature and thumb impression of PW1; Ex.P3, three green colour blank papers containing the signature and thumb impression of PW2-Vasanthi. The seizure mahazars viz., Ex.P10 and Ex.P11 have also been considered. Ex.P12 & Ex.P13 and Ex.P14 & Ex.P15 are the Accident registers and Medical Reports of Ashok Kumar and Vasanthi, respectively.

13. In view of the above discussion, we find that the trial Court appears to have dealt with the matter in accordance with law and the petitioners/Accused Nos.2, 4 & 5 are not entitled to suspension of sentence and grant of bail, pending appeal at this point of time and hence, we have no hesitation to reject the prayer, for the present.

14. Accordingly, the bail applications of all the petitioners herein/Accused Nos.2, 4 and 5, stand rejected.

15. With these observations, the Crl.M.P.Nos.6427 and 6991 of 2022, stand dismissed.



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16. We observe that the finding rendered by us is limited only for the purpose of disposal of these Criminal Miscellaneous Petitions and we are not expressing any opinion on the main appeals.

(P.N.P.,J.) (T.K.R.,J.)
27.09.2022

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To

1. The Sessions Judge,
Mahila Court, Salem.
2. The Public Prosecutor,
Madras High Court, Chennai – 600 104.



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Pre-delivery common order made in
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27.09.2022