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Crl.M.P.No.11425 of 2022
in Crl.a.No.838 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 21.12.2022

Pronouncing orders on : 23.12.2022

CORAM :

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

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

**Crl.M.P.No.11425 of 2022
in Crl.A.No.838 of 2022**

1.Mani @ Manikandan

..1st Petitioner/Appellant No.1/
Accused No.4

2.Saran @ Pottakozhi

..2nd Petitioner/Appellant No.2/
Accused No.5

3.Babu

..3rd Petitioner/Appellant No.3/
Accused No.6

Vs.

State by;
The Inspector of Police
Taluk Police Station
Villupuram.

... Respondent

(Ref: Cr.No.31/2014)



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in Crl.a.No.838 of 2022

Prayer : Criminal Miscellaneous Petition filed under Section 389 of Cr.P.C., to suspend the sentence imposed against the petitioners herein in the judgment and order dated 21.06.2022 in S.C.No.6 of 2017, on the file of Additional Sessions Judge, Villupuram (FTC) and enlarge the petitioners on bail.

For Petitioners : Mr.A.Ramesh
Senior Counsel
for M/s.B.A.Sujay Prasanna

For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

N. ANAND VENKATESH, J.

This petition has been filed seeking for suspension of sentence imposed against the petitioners through judgment and order dated 21.06.2022 in S.C No.6 of 2017, on the file of the Additional Sessions Judge (FTC), Villupuram and to enlarge the petitioners on bail, pending disposal of the Criminal Appeal.

2.The petitioners (A4, A5 and A6) were convicted and sentenced by the Court below in S.C.No.6 of 2017 in the following manner:



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Rank of the Accused	Provision under which convicted	Sentence/Punishment
A4 and A5	Section 148 IPC.	Six months Simple Imprisonment.
	Section 326 IPC	Three years Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months Simple Imprisonment.
	Section 302 IPC r/w 149 IPC.	Life Imprisonment and to pay a fine of Rs.25,000/-, in default, to undergo two years Rigorous Imprisonment.
A4	Section 307 IPC.	Five years Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo one year Simple Imprisonment.
A6	Section 147 IPC	Three months Simple Imprisonment.
	Section 323 IPC	One month Simple Imprisonment.
	Section 302 IPC r/w Section 149 IPC	Life Imprisonment and to pay a fine of Rs.25,000/-, in default, to undergo two years Rigorous Imprisonment.

3. The case of the prosecution is that the cousin of the deceased Gopi and A1 had a love affair. On coming to know of the same, the family members of the deceased warned A1 and his family members. On 16.01.2014, at about 03.00



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p.m., A1 to A7 are said to have formed into an unlawful assembly and they barged into the house of the deceased and had a wordy quarrel. It resulted in exchange of blows and as a result, the accused persons are said to have attacked the deceased and others with iron pipe, knife and wooden log and four persons sustained injuries and Gopi succumbed to the injuries. There are totally seven accused persons in this case and the petitioners were ranked as A4, A5 and A6.

4. Heard Mr.A.Ramesh, learned Senior Counsel for the petitioners and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing on behalf of the respondent.

5. On carefully going through the materials available on record and the judgment passed by the Court below, we find that the overt acts attributed against the petitioners was that they attacked the victims viz., P.W-2, P.W-3 and P.W-5 with pipe, knife and fist. No overt act has been attributed against the petitioners insofar as the attack made on the deceased.

6. The learned Senior Counsel pointed out to the fact that the incident took place on 16.01.2014 and the deceased died only on 05.10.2014 and hence, it was contended that there is no nexus between the injury and death of the deceased



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Gopi. Certain contradictions were also pointed out in terms of the delay in launching of the prosecution by 8 hours and the absence of Test Identification parade to identify the accused persons.

7.Considering the facts and circumstances of the case and also considering the fact that the petitioners have already suffered incarceration for a period of nearly six months and that there are arguable points involved in the appeal and further, the petitioners have no bad antecedents, we are inclined to suspend the sentence imposed by the Court below in S.C.No.6 of 2017 dated 21.06.2022, subject to the following conditions:-

- (i) The petitioners shall deposit the fine amount before the trial Court, if not already deposited.
- (ii) The petitioners shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Additional Sessions Judge, Villupuram (FTC) .
- (iii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar cards or Bank passbooks to ensure their identity; and



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- (iv) The petitioner shall appear before the respondent police every Monday at 10.30 a.m., for a period of eight weeks. After completion of the said period, the petitioners shall report before the learned Additional Sessions Judge, Villupuram (FTC), on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he 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 his absence, as directed by the trial Court.

Accordingly, this Criminal Miscellaneous petition is disposed of.

(P.N.P.,J.) (N.A.V.,J.)

23.12.2022

Internet : Yes/No

Index : Yes/No

Speaking order /Non-Speaking order

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To

1. Additional Sessions Judge,
Villupuram (FTC).
2. The Superintendent of Prison,
Central Prison, Cuddalore.
3. The Inspector of Police
Taluk Police Station
Villupuram.
4. The Public Prosecutor
High Court of Madras.



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P.N.PRAKASH,J.

and

N. ANAND VENKATESH,J.

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Pre-Delivery Order in
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23.12.2022