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Crl.M.P.No.12698 of 2022
in Crl.A.No.909 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.12698 of 2022
in Crl.A.No.909 of 2022**

1.Kanagaraj

2.Selvi @ Dhana Selvi

..Petitioners/Appellants/
Accused No.1 & 2

Vs.

State by;
Inspector of Police
Karuveppilankurichi Police Station
Karuveppilankurichi
Cuddalore District .

... Respondent

(Crime No.97/2020)

Prayer : Criminal Miscellaneous Petition filed under Section 389(1)of Cr.P.C., to suspend the sentence imposed by the III Additional District and Sessions Judge, Cuddalore at Vridhachalam in S.C.No.93 of 2020 dated 30.06.2022 and release the petitioner on bail pending disposal of the above said Criminal Appeal.



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For Petitioners : Mr.S.Nambirajan

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 30.06.2022 in S.C.No.93 of 2020, on the file of III Additional District and Sessions Judge, Cuddalore at Vridhachalam.

2. The petitioners were convicted and sentenced by the Court below in S.C.No.93 of 2020, in the following manner:

Rank of the Accused	Provision under which convicted	Sentence/Punishment
A1	Section 294(b) IPC.	Pay a fine of Rs.1,000/-, in default, to undergo one month Simple Imprisonment.
	Section 302 IPC.	Life Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo three months Simple Imprisonment.
A2	Section 294(b) IPC.	Pay a fine of Rs.1,000/-, in default, to undergo one month Simple Imprisonment.



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Rank of the Accused	Provision under which convicted	Sentence/Punishment
	Section 323 IPC (2 counts)	Pay a fine of Rs.1,500/- each, in default, to undergo one month Simple Imprisonment.
	Section 302 IPC.	Life Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo three months Simple Imprisonment.

3. The case of the prosecution is that the deceased Thamaraiselvan and his wife Gnanamani (P.W-2) were neighbours to the petitioners. A1 is the husband of A2. The water tank belonging to A1 leaked and resulted in stagnation of water and breeding of mosquitoes. There was a wordy quarrel in this regard and on 14.03.2020, during the night hours, the petitioners are said to have abused the deceased in filthy language and the deceased was attacked with hands and he was also kicked on his chest, head and stomach. When the wife of the deceased attempted to prevent the attack, she was also attacked. As a result, the deceased sustained head injuries and he succumbed to the injuries.

4. Heard Mr.S.Nambirajan, learned counsel for the petitioners and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent.



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5. The learned counsel for the petitioners made an endorsement and withdrew the application insofar as A1 is concerned and hence, this petition is dismissed insofar as the 1st petitioner/A1. This petition is considered only insofar as the 2nd petitioner/A2 is concerned.

6. It was contended that only the interested witnesses were examined in this case inspite of the availability of independent witnesses in the scene of crime. That apart, it was further contended that no serious overt act has been attributed against the 2nd petitioner. Various other discrepancies were also pointed out from the evidence available on record.

7. Taking into consideration the facts and circumstances of the case and also the fact that there are arguable points in the appeal and the 2nd petitioner/ A2 is a lady who has already suffered incarceration for nearly six months and paid the fine amount also, we are inclined to suspend the sentence imposed by the Court below in S.C.No.301 of 2012 dated 06.09.2022, subject to the following conditions:-



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- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned III Additional District and Sessions Judge, Cuddalore at Vridhachalam ;
- (ii) 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
- (iii) The petitioner shall appear before the learned III Additional District and Sessions Judge, Cuddalore at Vridhachalam, on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if she is not able to appear before the trial Court on any day, she 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 her 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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P.N.PRAKASH,J.

and

N. ANAND VENKATESH,J.

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To

1. III Additional District and Sessions Judge,
Cuddalore at Vridhachalam,
- 2.The Superintendent of Prison,
Central Prison, Cuddalore.
- 3.The Superintendent of Prison,
Central Prison, Vellore.
- 4.Inspector of Police
Karuveppilankurichi Police Station
Karuveppilankurichi
Cuddalore District .
- 5.The Public Prosecutor
High Court of Madras.

Pre-Delivery Order in
Crl.M.P.No.12698 of 2022
in Crl.A.No.909 of 2022

23.12.2022