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Crl.M.P.No.16751 of 2022 in Crl.A.No.141 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.11.2022

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

Crl.M.P.No.16751 of 2022
in Crl.A.No.141 of 2021

1.Arjunan

2.Muthukrishnan

3.Lakshmi Kumar

.. Petitioners/A-1 to A-3

Vs.

The State rep. by
The Inspector of Police
Sankarapuram Police Station
Villupuram District
(Cr. No.101/2012)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence imposed by the order passed against the petitioners in S.C.No.163 of 2015 on 18.02.2021 by the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Villupuram, enlarge on bail pending disposal of the criminal appeal.



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For Petitioners : Mr.S.Saravanakumar
For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

P.N.PRAKASH, J.

The petitioners viz., Arjunan (A-1), Muthukrishnan (A-2) and Lakshmi Kumar (A-3) faced a prosecution along with Sivaraman (A-4) and Muthu (A-5), in S.C.No.163 of 2015, in which, they were convicted and sentenced on 18.02.2021 by the Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Villupuram, as under :

<i>Name of the Accused</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Arjunan (A-1) Muthukrishnan (A-2) and Lakshmi Kumar (A-3)	S.302 IPC read with S.149 read with S.34 IPC	Imprisonment for life till their natural death and fine of Rs.1,000/- each, in default to undergo rigorous imprisonment for six months

Challenging the above conviction and sentences, the petitioners have filed Crl.A.No.141 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

2. Heard Mr.S.Saravanakumar, learned counsel for the petitioners and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent State.



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3. It is the case of the prosecution that the deceased Dhanabakkiyam and Arjunan (A-1) had a civil dispute, in which, the verdict went in favour of Dhanabakkiyam. While so, it is alleged that when Dhanabakkiyam was alighting from the bus on the fateful night of 07.02.2012 around 08.30 p.m., she was waylaid by Arjunan (A-1) and his family members and Arjunan (A-1) hacked her to death. It is seen that Sivaraman (A-4) and Muthu (A-5) died during trial.

4. Mr.S.Saravanakumar took us through the evidence of the eyewitness viz., Chellammal (P.W.1) and stated that her evidence has been contradicted by P.W.5 (Rasathi, Village Assistant). He has also submitted that Chellammal (P.W.1), in her cross-examination, has stated that she has given complaint only on the next day.

5. On a perusal of the FIR, it is seen that the incident had taken place at 08.30 p.m. on 07.02.2012 and the FIR has been registered at 11.00 p.m. on the same day. The stray statement of Chellammal (P.W.1) that she gave the complaint only on the next day, that too in the cross-examination, cannot, by itself, be a reason to disbelieve her testimony *qua* Arjunan (A-1). Hence, as



regards Arjunan (A-1), we are not inclined to grant suspension of sentence and accordingly, this petition stands dismissed.

6. As regards Muthukrishnan (A-2) and Lakshmi Kumar (A-3), they are said to have caught hold of Dhanabakkiyam, enabling Arjunan (A-1) to mount the attack on her.

7. Taking into consideration the nature of the allegations against Muthukrishnan (A-2) and Lakshmi Kumar (A-3), this Court is of the view that the relief of suspension of sentence can be granted and accordingly, this criminal miscellaneous petition stands allowed on the following conditions:

- (i) Muthukrishnan (A-2) and Lakshmi Kumar (A-3) 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 Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Villupuram;
- (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 Aadhaar card or Bank pass book and mobile number to ensure their identity; and



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(iii)Muthukrishnan (A-2) and Lakshmi Kumar (A-3) shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the 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 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.

[P.N.P., J.] [T K R, J.]

29.11.2022

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Issue order copy by 30.11.2022

To

1.The Sessions Judge
Magalir Neethimandram (Fast Track Mahila Court)
Villupuram

2.The Inspector of Police
Sankarapuram Police Station
Villupuram District
(Cr. No.101/2012)

3.The Superintendent
Central Prison
Cuddalore

4.The Public Prosecutor
Madras High Court
Chennai



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