



WEB COPY



Crl.M.P.No.17574 of 2022
in Crl.A.No.1185 of 2022

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IN

Crl.A.No.1185 of 2022

RESERVED ON : 21.12.2022

PRONOUNCED ON : 23.12.2022

P.N.PRAKASH, J.

AND

N. ANAND VENKATESH, J.

ORDER

N. ANAND VENKATESH, J.

This petition has been filed by the petitioners seeking for the suspension of sentence imposed in S.C.No.72 of 2017, by the learned III Additional District and Sessions Judge, Salem, through judgment and order dated 02.03.2022 and to enlarge the petitioners on bail, pending disposal of the Criminal Appeal.

2. The petitioners were convicted and sentenced by the IIIrd Additional Sessions Judge, Salem in S.C.No.72 of 2017 in the following manner.

Sl. No.	Rank of the Accused	Offence under which convicted	Sentence/Punishment
1.	A1	Section 302 r/w Section 34 IPC	Life Imprisonment and to pay a fine of Rs.25,000/-, in default, to undergo, six months Rigorous Imprisonment.



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Sl. No.	Rank of the Accused	Offence under which convicted	Sentence/Punishment
		Section 326 IPC.	Seven years Rigorous Imprisonment and to pay a fine of Rs.5000/-, in default, to undergo three months Rigorous Imprisonment.
		Section 324 IPC.	Pay a fine of Rs.5,000/-, in default, to undergo three months Rigorous Imprisonment.
		Section 294(b) IPC (two counts)	Pay a fine of Rs.1,000/- for each count, in default, to undergo two months Rigorous Imprisonment.
2.	A2	Section 302 r/w Section 34 IPC.	Life Imprisonment and to pay a fine of Rs.25,000/-, in default, to undergo, six months Rigorous Imprisonment.
		Section 323 IPC.	Pay a fine of Rs.1,000/- in default, to undergo one month Rigorous Imprisonment.
		Section 294(b) IPC (two counts)	Pay a fine of Rs.1,000/- for each count, in default, to undergo two months Rigorous Imprisonment.

3. The case of the prosecution is that A1 is the father of A2 and the husband of the *de facto* complainant, viz., Raja @ Maharaja, was having a land adjacent to



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the lands belonging to the accused persons. There was some dispute and there was a previous enmity between both the families. On 27.08.2016 at about 09.00 a.m., when the deceased Raja @ Maharaja and his family members were standing in front of their house, A1 is said to have developed a wordy quarrel with the deceased and the witness Aravindan (P.W-6) and Periyasamy (P.W-3) pacified both of them. At about 09.30 a.m. on the same day, A1 and A2 came together and A1, who was armed with wooden log, started abusing the deceased and his wife Selvi in filthy language and A2 also indulged in the said abuse and A1 attacked the deceased with the wooden log indiscriminately. A2 also took the wooden log from A1 and he also attacked the deceased with the wooden log. That apart, they also attacked P.W-1 and P.W-2, who also sustained injuries. All of them were taken to the Government Hospital, Attur and from there, they were shifted to Government Hospital, Salem and on 28.08.2016, at about 10.30 p.m., the deceased succumbed to the injuries.

4. Heard Mr.S.Jayakumar, learned counsel for the petitioners and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing on behalf of the respondents.



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5. The Court below has heavily relied upon the eyewitness account of the injured witnesses viz., P.W-1 and P.W-2 and also the evidence of the doctor who gave the first aid, who was examined as P.W-9 and through whom the accident register was marked as Ex.P8 and Ex.P9 and further, the evidence of the post mortem doctor examined as P.W-12, through whom the post mortem certificate was marked as Ex.P15. The reports given by the doctors was found to corroborate the eyewitness account of P.W-1 and P.W-2. We do not *prima facie* find any ground to disregard the finding of the Trial Court.

6. It is further seen from the judgment of the Court below that the accused persons did not cooperate for the completion of the trial and after the prosecution side evidence was closed on 21.09.2021 and the accused persons were questioned under Section 313 of Cr.P.C., on 24.09.2021 the proceedings were dragged till February 2022. This Court had to issue directions to complete the proceedings within a time frame. Even during the final hearing, the accused persons did not cooperate and the Court below had to decide the case on the available materials. This attitude of the petitioners gains significance while dealing with this petition seeking for suspension of sentence.



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7. In the light of the above, we do not find any merit to grant suspension of sentence to the petitioners pending the Criminal Appeal and accordingly, this Criminal Miscellaneous Petition stands dismissed.

[P.N.P.,J.] [N.A.V.,J.]

23.12.2022

Internet : Yes/No

Index : Yes/No

Speaking order /Non-Speaking order

KP

To

1. III Additional District and Sessions Judge, Salem,
- 2.The Superintendent of Prison,
Central Prison, Coimbatore
- 3.The Inspector of Police
Ethappur Police Station
Peddanaickenpalayam Taluk
Salem District.
- 4.The Public Prosecutor
High Court of Madras.



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Pre-Delivery Order in
Crl.M.P.No.17574 of 2022
IN
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23.12.2022