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Crl.M.P.No.16701 of 2022
in Crl.a.No.1157 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 15.12.2022

Pronouncing orders on : 19.12.2022

CORAM :

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

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.M.P.No.16701 of 2022
in Crl.A.No.1157 of 2022

1.Vadivelu
2.Kamala
3.Pushpavalli

... Petitioners

Vs.

State by;
The Inspector of Police
Deevattipatti Police Station
Salem District.
(Crime No.490 of 2011)

... Respondent

Prayer : Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., to suspend the sentence imposed on the petitioners by the learned II Additional District and Sessions Judge, Salem dated 6.09.2022 made in S.C.No.301 of 2012 and enlarge the petitioners on bail pending disposal of the Criminal Appeal.

For Petitioners : Mr.P.Jagadeesan

For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor



Crl.M.P.No.16701 of 2022
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ORDER

N. ANAND VENKATESH, J.

This petition has been filed by A2, A3 and A4 seeking for the suspension of sentence imposed in S.C.No.301 of 2012 by the learned II Additional District and Sessions Judge, Salem, through judgment and order dated 06.09.2022 and to enlarge the petitioners on bail, pending disposal of the Criminal Appeal.

2. The petitioners who were arrayed as A2 to A4 were convicted and sentenced in the following manner:

Rank	Provision under which convicted	Sentence
A2 to A4	Section 447 IPC	To undergo Rigorous imprisonment for 3 months each.
A2 to A4	Section 342 IPC	To undergo Rigorous imprisonment for 1 year each
A2 to A4	Section 302 r/w 34 IPC	To undergo Rigorous imprisonment for life along with fine of Rs.5,000/- each. In default of payment of fine the each Accused shall undergo additional simple imprisonment for 6 months.

3. The case of the prosecution is that Indhirani (PW-1) is the wife of the deceased Narayanan. A-2 is the son of A-1, A-3 is the wife of A-1 and A-4 is the wife of



Crl.M.P.No.16701 of 2022
in Crl.a.No.1157 of 2022

A-2. A1 to A4 were the adjacent landowners of the deceased Narayanan and there was some dispute between the parties which resulted in frequent quarrels and civil suits were also filed and pending. On 07.08.2011, at about 04.00 p.m., there was a wordy quarrel between A1 and A2 on the one side, the deceased and his wife (P.W-1) on the other side. At that point of time, A1 and A2 are said to have threatened the deceased and his wife with dire consequences.

4. In continuation to the above incident, on 08.08.2011, during midnight hours, A1 to A4 committed trespass into the property belonging to P.W-1 and A-3 and A-4 caught hold of P.W-1 and A-2 caught hold of the deceased Narayanan and A-1 attacked the deceased with M.O-1 indiscriminately and as a result, the deceased sustained multiple injuries and died due to shock and haemorrhage.

5. Heard Mr.P.Jagadeesan, learned counsel for the petitioners and Mr.R.Muniyapparaj, learned Additional Public Prosecutor for the respondent.

6. The learned counsel for the petitioners submitted that he is withdrawing the petition insofar as 1st petitioner/A2 is concerned. In view of the same, the submissions made on either side with regard to the 2nd and 3rd petitioners/A3 and A4 alone is considered by this Court.



Crl.M.P.No.16701 of 2022
in Crl.a.No.1157 of 2022

WEB COPY

7. It was contended that the overt act attributed against A3 and A4 is that they had caught hold of P.W-1 and they did not play any role insofar as the attack made as against the deceased and the overt act was specifically attributed only as against A-1 and A-2. It was further contended that P.W-1 could not have even seen the accused persons since the incident happened in the midnight and there was no evidence to show that light was available in the scene of crime. The learned counsel for the petitioners submitted that the 2nd and 3rd petitioners are ladies and they have already suffered incarceration for nearly three months.

8. 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/ A3 is aged about 71 years and the 3rd petitioner/A4 is aged about 39 years and has to take care of two children and also of the fact that there are no previous cases as against the 2nd and 3rd petitioners and that they have already suffered incarceration for nearly three 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:-

(i) The petitioners shall execute a bond for a sum of Rs.25,000/-,



WEB COPY



Crl.M.P.No.16701 of 2022
in Crl.a.No.1157 of 2022

each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned II Additional District and Sessions Judge, Salem;

- (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 petitioners 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 learned II Additional District and Sessions Judge, Salem, 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.

(P.N.P.,J.) (N.A.V.,J.)
19.12.2022

Internet : Yes/No
Index : Yes/No
Speaking order /Non-Speaking order
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CrI.M.P.No.16701 of 2022
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P.N.PRAKASH,J.

and

N. ANAND VENKATESH,J.

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To

1. II Additional District and Sessions Judge, Salem
2. The Superintendent of Prison,
Central Jail, Coimbatore
3. The Inspector of Police
Deevattipatti Police Station
Salem District.
4. The Public Prosecutor
High Court of Madras.

Pre-Delivery Order in
CrI.M.P.No.16701 of 2022
in CrI.A.No.1157 of 2022

19.12.2022