



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
( Criminal Jurisdiction )

Monday, the Twenty Fourth day of January Two Thousand and Twenty Two  
PRESENT

**The Hon`ble Mrs.Justice R.THARANI**

**CRL MP(MD) No.868 of 2022**  
**in**  
**CRL A(MD)No.479 of 2021**

NAGARAJ

... APPELLANT/ACCUSED

Vs

THE STATE REPRESENTED BY  
THE INSPECTOR OF POLICE  
NORTH POLICE STATION, DINDIGUL CITY,  
DINDIGUL.  
CRIME NO.1025/2008.

... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed against the petitioner in S.C.No.125/2018 on the file of the Additional District and Sessions Court, Dindigul and enlarge them on bail pending disposal of above Criminal Appeal.

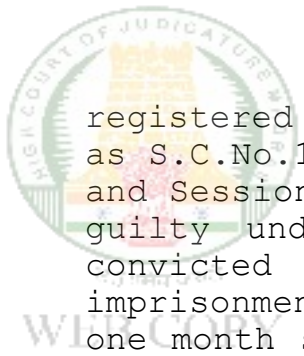
PRAYER IN CRL A(MD) No.479 of 2021:

Pleased to call for the records relating to the judgment in S.C.No.125/2018 dated 21.10.2021 on the file of the Additional District and Sessions Court, Dindigul set aside the same and allow this appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.SUSI KUMAR.C, Advocate for the petitioner and of Mr.K.SANJAI GANDHI, Government Advocate on behalf of the Respondent, the Court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Additional District and Sessions Judge, Dindigul, in S.C.No.125 of 2018 dated 21.10.2021, till the disposal of the appeal.

2.The allegation against the petitioner is that on 01.12.2008, at about 03.00 a.m., in the early morning hours, with a motive against one Kannan, the petitioner committed the murder of one Karupaiah, who was sleeping in front of the shop of Kannan, falsely identifying him as Kannan. A case in Crime No.1025 of 2008 was



registered against the petitioner. Later the case was taken on file as S.C.No.125 of 2018 on the file of the learned Additional District and Sessions Judge, Dindigul. The learned Judge found the petitioner guilty under Section 304(1) of IPC and altered the charge and convicted and sentenced him to undergo 10 years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default to undergo one month simple imprisonment. Against the conviction and sentence, the petitioner has filed an appeal before this Court in Crl.A.(MD) No.479 of 2021. Along with the appeal, the petitioner has filed a petition in Crl.M.P.(MD)No.9761 of 2021 for suspension of sentence and the same was dismissed by this Court, by an order dated 23.11.2021. Again the petitioner has filed the present petition for suspension of sentence pending disposal of the said appeal.

3.On the side of the petitioner, it is stated that the earlier petition filed by the petitioner was dismissed only on the ground that the judgment is a recent one. The petitioner is in custody for the past 96 days. P.W.1 and deceased were close friends. The deceased came to the shop of P.W.1. There was no motive against the deceased. The recovery of weapons alone is insufficient to convict the petitioner. The wife of the deceased did not support the case of the prosecution. No enmity was proved. The recovery was not proved. The evidence of Medical Officer did not support the case of the prosecution. There were eight injuries on the body of the deceased, in which six were cut injuries and two were abrasions. There is no possibility of the six injuries to be caused by iron rod or axle blade. Some body robbed the deceased and murdered him and prayed the sentence to be suspended till the disposal of the appeal.

4.On the side of the prosecution, it is stated that the offence was altered into Section 304(1) of IPC. The evidence of P.W.1 is clear that the petitioner was available in the scene of the occurrence along with the deceased. The prosecution has examined 15 witnesses and marked 22 documents and 9 material objects and proved the case beyond all reasonable doubts. The judgment is a recent one and prayed the petition to be dismissed.

5.The allegation levelled against the petitioner is serious in nature. The judgment is a recent one. Considering the grievous nature of the offence, the earlier petition was dismissed only on 23.11.2021. There is no change of circumstances. Considering the above situation, this Court is not entitled to grant suspension of sentence to the petitioner at the present stage. This Criminal Miscellaneous Petition is dismissed.

sd/-

24/01/2022

/ TRUE COPY /

/ /2022

Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.



TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,  
DINDIGUL.

2 THE INSPECTOR OF POLICE  
NORTH POLICE STATION, DINDIGUL CITY,  
DINDIGUL.

3 THE SUPERINTENDENT,  
CENTRAL PRISON,  
MADURAI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER  
IN  
CRL MP (MD) No.868 of 2022  
in  
CRL A (MD) No.479 of 2021  
Date :24/01/2022

SS/JM/SAR-II/31.01.2022 : 3P/5C