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Crl.M.P.Nos.2349 & 9877 of 2023
in Crl.A.No.35 & 74 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.M.P.Nos.2349 & 9877 of 2023

in

Crl.A.Nos.35 & 74 of 2021

1.Panneerselvam

2.P.Anbalagan

3.Ragavan @ Seeyapadi Ragavan

... Petitioners

in Crl.M.P.No.2349 of 2023

G.Natrajan

... Petitioner

in Crl.M.P.No.9877 of 2023

Vs.

The State represented by

The Inspector of Police

Crime Branch C.I.D.,

Cuddalore.

Crime No.301 of 2005 in Bhuvanagiri P.S.

... Respondent

in Crl.M.P.No.2349 of 2023



Crl.M.P.Nos.2349 & 9877 of 2023
in Crl.A.No.35 & 74 of 2021

The State represented its
The Inspector of Police
CBCID,
Cuddalore.

... Respondent
in Crl.M.P.No.9877 of 2023

Criminal Miscellaneous Petitions filed under Section 389(1) Cr.P.C. to suspend the sentence imposed on the petitioners by the Principal District and Sessions Judge, Cuddalore, in S.C.No.123 of 2016, by judgment dated 18.01.2021 and enlarge the petitioners on bail pending disposal of the above Criminal Appeals.

For Petitioner : Mr.A.Ramesh
Senior Counsel
for Mr.G.Pugazhenth
in Crl.M.P.No.2349 of 2023

: Mr.R.C.Paul Kanagaraj
in Crl.M.P.No.9877 of 2023

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor
in both petitions



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COMMON ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

These Criminal Miscellaneous Petitions have been filed to suspend the sentence imposed on the petitioners by the learned Principal District and Sessions Judge, Cuddalore, in S.C.No.123 of 2016, by judgment dated 18.01.2021 and enlarge the petitioners on bail pending disposal of the above Criminal Appeals.

2.The learned Principal District and Sessions Judge, Cuddalore, in S.C.No.123 of 2016, has convicted and sentenced the petitioners as follows:

<i>Accused</i>	<i>Offence for which Convicted</i>	<i>Sentence</i>
A1 (1 st petitioner in Crl.M.P.No.2349 of 2023)	Section 302 r/w.34 IPC	Life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo Simple Imprisonment for one year
	Section 147 IPC	Rigorous Imprisonment for one year and to pay a fine of Rs.500/-, in default, to undergo Simple Imprisonment for one month
	Section 341 IPC	Simple Imprisonment for one month
A2 and A4 (2 nd & 3 rd petitioners in Crl.M.P.No.2349 of 203)	Section 302 r/w.34 IPC	Life imprisonment and to pay a fine of Rs.1,000/- each, in default, to undergo Simple Imprisonment for one year



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<i>Accused</i>	<i>Offence for which Convicted</i>	<i>Sentence</i>
	Section 302 r/w.201 IPC (2 counts)	Rigorous Imprisonment for three years and to pay a fine of Rs.100/- each, in default, to undergo Simple Imprisonment for one month each for each count
	Section 147 IPC	Rigorous Imprisonment for one year and to pay a fine of Rs.500/- each, in default, to undergo Simple Imprisonment for one month each
	Section 341 IPC	Simple Imprisonment for one month each
A5 (Petitioner in Crl.M.P.No.9877 of 2023)	Section 302 r/w.34 IPC (2 counts)	Life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo Simple Imprisonment for one year for each count
	Section 147 IPC	Rigorous Imprisonment for one year and to pay a fine of Rs.500/-, in default, to undergo Simple Imprisonment for one month
	Section 341 IPC (2 counts)	Simple Imprisonment for one month for each count
Sentences were ordered to run concurrently		

3.Challenging the above conviction and sentence, A1, A2 and A4 have filed Crl.A.No.35 of 2021 and A5 has filed Crl.A.No.74 of 2021 and they are seeking suspension of sentence and bail in the present miscellaneous petitions.



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4.The case of the prosecution is that, one Sumathi, daughter of A2, became pregnant in the year 1999 and it was alleged that P.W.1 was responsible for her pregnancy. There was a village panchayat in which the entire family of P.W.1 was asked to stay away from the village. The said Sumathi preferred a private complaint and on that basis, P.W.1 was convicted for the offences under Sections 417 and 354 IPC. Later, on 08.05.2005 at around 03.00 p.m., one Kaliyamurthy, the father of P.W.1, and Ravichandran, cousin of P.W.1, did not return home for lunch after they went to their agricultural field. After searching the missing persons, two bodies were found on the following morning, i.e., on 09.05.2005 without any injuries, in the river bed, which were thereafter identified as bodies of the said Kaliyamurthy and Ravichandran. Thereafter, the respondent Police registered a case in Crime No.301 of 2005 under Section 174 Cr.P.C. for suspicious death.

5.It is admitted that there was no progress in the investigation and ultimately, the Police authorities also filed a report of “action dropped”.



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Later, it appears that, as per the orders of this Court in Crl.O.P.No.25518 of 2006, dated 18.01.2007, the case was transferred to CBCID, Cuddalore and fresh investigation was started. After the investigation by CBCID, the accused were charge-sheeted and the case was committed to the Court of Session and was made over to the learned Principal District and Sessions Judge, Cuddalore.

6.During pendency of the trial, A3 died. After completing the trial, the learned Principal District and Sessions Judge, Cuddalore, convicted and sentenced A1, A2, A4 and A5, as stated above. Now, the accused persons pray for suspension of sentence imposed on them and for grant of bail.

7.Heard the learned Senior Counsel appearing for the petitioners and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor appearing for the respondent/State.

8.The whole case is based on the evidence of P.W.2 ,who was examined as eye-witness. It is seen that P.W.2 was examined seven years



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after the incident by the CBCID Police Officer. It is P.W.2's version that, on the date of occurrence, he was present in the scene of occurrence without the knowledge of the accused. He has stated that, while he was on his way from one Chidambaram's house to his house, he went near the bushes near river bank for nature's call, he saw five persons pushing down the deceased and smothering them by blankets. The evidence of P.W.2 also reveals that he is a man with political affiliation and aged 53. The reason stated by him for not disclosing or sharing what he saw on the fateful day for nearly 7 years, is not convincing to any normal prudent man. Except the evidence of P.W.2, this Court is unable to find any other evidence to prove the involvement of the accused. P.W.1 and all other witnesses only suggest that there was motive for the accused to commit the crime. The conviction cannot be based on the circumstance of “motive” alone. The statements given by other witnesses and the evidence before the Court below after a considerable length of time, have seriously caused prejudice to the petitioners. Therefore, this Court finds that a *prima facie* case is made out for suspending the sentence imposed on the petitioners and granting bail.



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9. Accordingly, these Criminal Miscellaneous Petition are **allowed** and the sentence of imprisonment imposed on the petitioners (A1, A2, A4 and A5) are **suspended** and they are granted bail on the following conditions:

- (i) The petitioners in Crl.M.P.No.2349 of 2023 in Crl.A.No.35 of 2021 (A1, A2 and A4) shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty five thousand only), each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Chief Judicial Magistrate, Cuddalore.
- (ii) The petitioner in Crl.M.P.No.9877 of 2023 in Crl.A.No.74 of 2021 (A5) shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty five thousand only), with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Chief Judicial Magistrate, Cuddalore.
- (iii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate/trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and



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(iv)The petitioners shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the Appeals 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.

(S.S.S.R., J.) (S.M., J.)
13.10.2023

mkn

Internet : Yes

Index : Yes / No

To

- 1.The Principal District and Sessions Judge,
Cuddalore.
- 2.The Chief Judicial Magistrate,
Cuddalore.
- 3.The Superintendent,
Central Prison,
Cuddalore.

S.S. SUNDAR, J.



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and
SUNDER MOHAN, J.

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4.The Superintendent,
Sub-Jail, Chidambaram.

5.The Inspector of Police
Crime Branch C.I.D.,
Cuddalore.

6.The Public Prosecutor,
High Court, Madras.

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