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Crl.MP.No.5247 of 2023  
in Crl.A.No.412 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 28.11.2023**

CORAM :

**THE HONOURABLE MR. JUSTICE S.S.SUNDAR**

**AND**

**THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

**Crl.MP.No.5247 of 2023**  
**in Crl.A.No.412 of 2023**

Ananthan

... Petitioner

Vs.

State Rep. by,  
The Inspector of Police,  
Kandachipuram Police Station,  
Villupuram District.  
Crime No. (299/2019)

... Respondent

Prayer:- Criminal Miscellaneous Petition filed under Section 389 (3) of Cr.P.C., to suspend the sentence imposed on the petitioner by Judgment dated 07.10.2021 made in SC No.34/2020 on the file of the Principal Sessions Court, Villupuram, enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

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For Petitioner : Mr.E.V.Chandru  
For Respondent : Mr.A.Gokulakrishnan  
Additional Public Prosecutor

### **ORDER**

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

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner, by the Principal Sessions Court, Villupuram in S.C.No.34 of 2020, by the judgment, dated 07.10.2021, enlarge him on bail and pending disposal of the above Criminal Appeal.

2. The Principal Sessions Judge, Villupuram in S.C.No.34 of 2020, convicted the accused and sentenced him as follows:

| Accused                                                  | Offence | Sentence Imposed                                                                                                               |
|----------------------------------------------------------|---------|--------------------------------------------------------------------------------------------------------------------------------|
| Sole Accused                                             | 449 IPC | To undergo 10 years rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo 2 ½ years simple imprisonment. |
|                                                          | 302 IPC | To undergo life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo 3 ½ years Simple imprisonment.            |
| The sentences imposed were directed to run concurrently. |         |                                                                                                                                |



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3. Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present miscellaneous petition.

4. Heard Mr.E.V.Chandru, learned Counsel appearing for the petitioner and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor, appearing for the respondent/State.

5. The case of the prosecution is that accused who is the brother of the deceased had prior enmity with the deceased on account of a partition dispute; that on 07.09.2019 at about 3 p.m., the deceased prevented the accused from cutting down the Guava trees which belonged to both in common; that the accused abused the deceased in filthy words and threatened him with dire consequences; that due to the quarrel, accused trespassed into the house of the deceased on the same day at about 9 p.m.,



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on 07.09.2019, and dropped the grinding stone in the right side head and face of the deceased; and that the deceased died of the injury.

6. The case was registered in Crime No.299 of 2019, for the offence under Section 302 of IPC on 08.09.2014, at about 14.00 hours and the petitioner who is the sole accused was arrested during the course of investigation. A Final Report was filed against the petitioner for the offences under Sections 294 (b), 506(2), 449 and 302 of the Indian Penal Code.

7. During trial, twelve witnesses were examined as P.W.1 to P.W.12, nineteen exhibits and three material objects were marked as Exs.P1 to P19 and M.O.1 to M.O.3.

8. The conviction was on the basis of the extra judicial confession allegedly made by the petitioner/accused to P.W.6 and P.W.7. Both the witnesses have deposed that they did not disclose the alleged confession to the Police or any one immediately. The Hon'ble Supreme Court and this



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Court, had repeatedly held that the extra judicial confession is a weak piece of evidence and that unless it is truthful and voluntary and the person to whom the alleged confession made, is reliable the same cannot be the sole basis for conviction. The material discrepancy and the conduct of the two witnesses are not natural so as to give credit to their statement about the confession. Their statements do not inspire confidence and therefore, the alleged extra judicial confession made to them cannot be believed. All other witnesses have turned hostile except the official witnesses. This Court is of the view that the conviction may not be sustained in this appeal.

9. Hence, for the aforesaid reasons, this Court is inclined to suspend the Sentence imposed on the petitioner.

10. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment imposed on the petitioner is suspended on the following conditions:

(i) The petitioner shall execute a bond for a sum of



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Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Principal Sessions Judge, Villupuram;

- (ii) The petitioner and 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 card or Bank pass Book and mobile numbers to ensure their identity;
- (iii) The petitioner 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 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.

(S.S.S.R., J.) (S.M., J.)  
28.11.2023

Internet : Yes

Index : Yes / No

**Note to office:**

**Issue order copy by 12.12.2023**

**Upload the order copy forthwith**

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To

- 1.The Principal Sessions Court,  
Villupuram.
- 2.The Inspector of Police,  
Kandachipuram Police Station,  
Villupuram District.
- 3.The Superintendent,  
Central Prison, Cuddalore.
- 4.The Public Prosecutor,  
High Court, Madras.



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**S.S. SUNDAR, J.**  
**and**  
**SUNDER MOHAN, J.**

dk

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