



Crl.M.P.No.3013 of 2023 in Crl.A.No.349 of 2022

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S.S.SUNDAR, J.

and

SUNDER MOHAN, J.

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

The petitioners, being Accused Nos.1 & 2, stand convicted for the offence under Section 302 of IPC and each of them was sentenced to undergo life imprisonment and also to pay a fine of Rs.5000/- each, in default to undergo 6 months rigorous imprisonment in S.C.No.100 of 2015 vide the judgment dated 22.02.2022 passed by the learned Second Additional Sessions Judge, Tiruppur. They have filed the above appeal challenging the said conviction and sentence along with the Accused Nos.3 to 5, who were also convicted and sentenced for the respective offence as stated therein. Pending the appeal, the petitioners have now taken out the present petition seeking to suspend the sentence and enlarge them on bail.

2. The case of the prosecution is that A1 & A2, who are brothers, suspecting that the deceased was having illicit relationship with their mother, decided to kill the deceased; that on 19.01.2012, at about 3.00 P.M., near Kulathukkarai Kannimar temple, the accused brutally attacked the deceased using sword and knife and caused his death. A4 to A7 were



charged for aiding A1 to A3 for committing the offence.

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3. The learned counsel appearing for the petitioners pointed out before this Court that the two witnesses, namely, P.W.4 and P.W.8, who gave evidence, have turned hostile and that therefore, the conviction based on their version cannot be sustained.

4. This Court is convinced that the evidence of P.W.4 can be safely relied upon, as he has supported the case of the prosecution to the extent that he saw the accused coming out of the temple. Similarly, P.W.8 has also deposed that even though he was the witness to the crime from a distance, he can identify the persons who fled immediately after the death of the deceased. In cases of this nature, this Court, unless satisfied with the materials that the accused have a fair chance of success in the appeal, cannot exercise its discretion, since the finding of the trial Court is based on appreciation of evidence. Therefore, the criminal miscellaneous petition stands dismissed.

(S.S.S.R.,J.) (S.M.,J.)
21.11.2023

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