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CRL.MP.NO.5698 OF 2023 IN CRL.RC.NO.732 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRL.MP.NO.5698 OF 2023

IN

CRL.RC.NO.732 OF 2023

Velu @ Velmurugan

... Petitioner

Vs.

The State Rep. By
Sub Inspector of Police
Buvanagiri Police Station
Cuddalore District.
(Crime No.282/2012)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 397(1) Cr.P.C., to suspend the sentence of imprisonment imposed by the learned II Additional Sessions Judge, Chidambaram, in Crl.A.No.13 of 2020 by judgment dated 30.09.2022 and confirming the conviction passed by the learned Assistant Sessions Judge, Chidambaram in S.C.No.78 of 2015 by the judgment dated 30.09.2020 and enlarge the petitioner on bail, pending disposal of the Criminal Revision.

For Petitioner	...	Mr.R.Thamaraiselvan
For Respondent	...	Mr.R.Vinothraja
		Government Advocate (Crl. Side)



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ORDER

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This Criminal Miscellaneous Petition has been preferred by the petitioner seeking to suspend the sentence of imprisonment imposed by the learned II Additional Sessions Judge, Chidambaram, in Crl.A.No.13 of 2020 by judgment dated 30.09.2022 and confirming the conviction passed by the learned Assistant Sessions Judge, Chidambaram in S.C.No.78 of 2015 by the judgment dated 30.09.2020 and enlarge the petitioner on bail, pending disposal of the Criminal Revision.

2.The Trial Court, by its judgment dated 30.09.2020 in S.C.No.78 of 2015 convicted and sentenced the petitioner / accused as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole Accused	307 IPC	Sentenced to undergo Rigorous Imprisonment for five years and to pay a fine of Rs.1,000/-, in default, to undergo Simple Imprisonment for six months.
Set off was allowed under Section 428 Cr.P.C.		

3.The petitioner, who is the sole accused in S.C.No.78 of



2015, aggrieved over the judgment of conviction and sentence imposed on him, has filed the present Criminal Revision Case along with the instant miscellaneous petition, seeking suspension of sentence and to enlarge him on bail.

4.The case of the prosecution is that the accused is residing in a house opposite to the house of the defacto complainant by name Aruljothi. The husband of the defacto complainant viz., Natarajan and the accused had a pre-conceived notion that Natarajan, being the 8th child of his father, if resides opposite to his house will cause trouble to his family and that their family will be doomed. On such a pre-conceived notion, on 29.07.2012 at about 08.00 pm., the accused saw Natarajan and by stating that his family is undergoing so many troubles and whether or not he will evict his house abused him in filthy language and had assaulted Natarajan with Koduva Knife on the right side of his head, on the right ear and on the right chest and thereby, caused him simple injuries. Accordingly, a preliminary case was registered in Case No.40/2013 under Sections 294(b) and 307 IPC on the file of the District Munsif cum Judicial Magistrate, Portonovo. The learned District Munsif cum Judicial Magistrate,



Portonovo had committed the case to the learned Principal District and Sessions Judge, Cuddalore, under Section 209 Cr.P.C., and the learned Principal District and Sessions Judge, Cuddalore has made over the case to the learned Assistant Sessions Judge, Chidambaram.

5.After analysing the oral and documentary evidence, the Trial Court, acquitted the petitioner / accused from the charge under Section 294(b) IPC and convicted him under Section 307 IPC. Challenging the same, the petitioner preferred an appeal in Crl.A.No.13 of 2020 and the same was dismissed on 30.09.2022. Challenging the same, the petitioner is before this Court.

6.The learned counsel for the petitioner submitted that there are arguable points in this Criminal Revision Petition and hence, prayed for suspension of sentence.

7.The learned Government Advocate (Criminal Side) for the respondent objected to suspend the sentence, but admitted that the petitioner is not confined in prison.

8.Heard the learned counsel for the petitioner and the learned



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Government Advocate (Criminal Side) and perused the entire materials available on record.

9.The petitioner has raised substantial grounds in the Criminal Revision, which require detailed appraisal. Further, the Criminal Revision is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence.

10.Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:

(i) The substantive sentence of imprisonment alone is suspended and the petitioner shall surrender before the learned Sub Court, Chidambaram, within two weeks from the date of receipt of a copy of this order and on such surrender, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the above said Court.

(ii) The petitioner and the sureties shall affix their



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photographs and Left Thumb Impression in the surety bonds and the above said Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and;

(iii) The petitioner shall appear before the above said Court as and when required.

24.04.2023

(2/3)

TK

To

- 1.The Assistant Sessions Judge
Chidambaram.
- 2.The II Additional Sessions Judge
Chidambaram.
- 3.Sub Inspector of Police
Buvanagiri Police Station
Cuddalore District.
- 4.The Public Prosecutor
High Court of Madras.



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V.SIVAGNANAM, J.

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