



Crl.M.P.No.5633 of 2023
in Crl.A.No.450 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE **S.S. SUNDAR**
AND
THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

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in
Crl.A.No.450 of 2023

1.Sathishkumar @ Jagedesh
2.Sellammal
3.Kokila

... Petitioners

Vs.

The State rep. By its
Inspector of Police,
Perumbalai Police Station,
Dharmapuri.

... Respondent

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence dated 05.01.2023 passed in S.C.No.70 of 2019 on the file of Additional District and Sessions Court, Dharmapuri and to enlarge the petitioners on bail pending disposal of the main criminal appeal.

For Petitioner : Mr.P.G.Thiyagu

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

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

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the Additional District and Sessions Judge, Dharmapuri, in S.C.No.70 of 2019, dated 05.01.2023, and enlarge the petitioners on bail pending disposal of the above Criminal Appeal.

2. The learned Additional District and Sessions Judge, Dharmapuri, in S.C.No.70 of 2019, has convicted and sentenced the petitioners/A1 to A3 as follows :

Accused No.	Offence for which Convicted	Sentence
A1	294(b) IPC	Rigorous imprisonment for one month
	302 IPC	Life imprisonment and to pay a fine of Rs.5,000/- in default to undergo two years rigorous imprisonment
A2	294(b) IPC	Rigorous imprisonment for one month
	302 r/w 34 IPC	Life imprisonment and to pay a fine of Rs.5,000/- in default to undergo two years rigorous imprisonment
A3	294(b) IPC	Rigorous imprisonment for one month
	302 r/w 34 IPC	Life imprisonment and to pay a fine of Rs.5,000/- in default to undergo two years rigorous imprisonment
Sentences were ordered to run concurrently		



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3. Challenging the above conviction and sentence, the petitioners, who are arrayed as A1, A2 and A3, have filed the above Criminal Appeal and they are seeking suspension of sentence and bail in the present miscellaneous petition.

4. The first petitioner/A1 is the son of the defacto complainant's brother, petitioners 2 and 3/A2 and A3 are the mother and wife of the first petitioner respectively.

5. The case of the prosecution is that on 01.03.2018 at about 9.00 p.m., all the accused gathered outside the house of the deceased and with a common intention of causing death, attacked him on his left thigh, left shoulder and back with fire wood. It is the further case of the prosecution that A1 attacked the deceased with koduval on his left leg. Since the deceased was bleeding profusely, it appears that despite first aid, the deceased died on the way to the hospital. Therefore, the accused were tried for the offences under Sections 294(b), 302 of IPC. The Police originally laid a charge sheet only against A1. However, on further investigation, A2 and A3 viz., mother and wife of A1 respectively have been implicated. Except P.W.1/wife of the deceased, all other witnesses have turned hostile.



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6. Heard the learned counsel for the petitioners/A1 to A3 and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor appearing for the respondent/State.

7. Learned counsel for the petitioners submits that A2 and A3 are not involved in the commission of offence. Learned counsel submits that he is not pressing the petition insofar as first petitioner/A1 is concerned and he has also made an endorsement to that effect.

8. In view of the endorsement made by the learned counsel for the petitioners, this Criminal Original Petition is **dismissed as not pressed insofar as first petitioner/A1 is concerned.**

9. Except the evidence of P.W.1, the wife of deceased, an interested witness, there is no other evidence to prove the involvement of A2 and A3. Post-mortem certificate does not disclose the injury allegedly caused by A2 and A3. Though the incident is not disputed, this Court is unable to find any convincing evidence to implicate A2 and A3. Therefore, this



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Court is inclined to suspend the sentence insofar as A2 and A3 are concerned.

10. Accordingly, this Criminal Miscellaneous Petition stands **allowed** and the sentence of imprisonment imposed on the petitioners 2 and 3/A2 and A3 is **suspended** and they are granted bail on the following conditions:

- (i) Petitioners 2 and 3/A2 and A3 shall execute a bond for a sum of Rs.25,000/-, each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Additional District and Sessions Judge, Dharmapuri.
- (ii) 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; and
- (iii) The petitioners 2 and 3/A2 and A3 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 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



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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.)
09.10.2023

Index : Yes / No
Neutral Citation: Yes/No
mmi/spp

To

- 1.The Additional District and Sessions Judge,
Dharmapuri.
- 2.The Inspector of Police,
Perumbalai Police Station,
Dharmapuri.
- 3.The Superintendent,
Central Prison, Vellore.
- 4.The Public Prosecutor,
High Court, Madras.



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and
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