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Crl.M.P.No.4798 of 2023
in Crl.A.No.286 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

CORAM :

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

Crl.M.P.No.4798 of 2023
in
Crl.A.No.286 of 2021

S.Chinnadurai

... Petitioner

Vs.

The State rep. By
The Inspector of Police,
Kandachipuram Police Station,
Arakandanallur Circle,
Arakandanallur,
Old Villupuram District.

... Respondent

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence imposed upon the petitioner by the Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Villupuram in S.C.No.362 of 2014 dated 19.11.2020 and enlarge the petitioner/first appellant/first accused on bail pending disposal of the above criminal appeal.



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For Petitioner : Mr.M.Ravikumar

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

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 Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Villupuram in S.C.No.362 of 2014 dated 19.11.2020, and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2. The learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Villupuram in S.C.No.362 of 2014, has convicted and sentenced the petitioner/A1 as follows:

<i>Offence for which Convicted</i>	<i>Sentence</i>
302 r/w 34 IPC	Life imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo three months rigorous imprisonment



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Offence for which Convicted	Sentence
120(B) IPC	Life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo two months rigorous imprisonment
307 IPC	Five years simple imprisonment and to pay a fine of Rs.2,000/- in default to undergo two months simple imprisonment
Sentences are ordered to run concurrently	

3. Challenging the above conviction and sentence, the petitioner, who is arrayed as A1, has filed the above Criminal Appeal and he is seeking suspension of sentence and bail in the present miscellaneous petition.

4. Petitioner is the first accused. Second accused is the father of first accused as well as P.W.1. P.W.1 is the elder son of the second accused. A1 is the younger brother of P.W.1. Deceased is the wife of P.W.1. Third accused is the mother of first accused and P.W.1. Fourth accused is the sister's husband of P.W.1.

5. The case of the prosecution is that there was some dispute



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among the family members; that the second accused/father refused to give a share in the land to P.W.1; that the matter was not settled even after the panchayat; that on 19.08.2013, when P.W.1 along with his wife went to plough the land, A1 and A2 prevented P.W.1 and attacked him and his wife with a knife; A1 inflicted a stab injury on the deceased and the deceased succumbed to the injuries;

6. It is submitted that A4 was acquitted by the trial Court and the mother of P.W.1 and A1 viz., A3 died. This Court has suspended the sentence as far as A2/father of A1 is concerned. The motive attributed to the first accused is that P.W.1 by misappropriating the money belonging to the family members had, taken a property on lease and purchased a land in favour of his wife; that therefore the accused prevented P.W.1 to plough the land and in that attempt, there was a scuffle and the deceased suffered fatal injury at the hands of A1. A1 has no previous antecedents. He is an agriculturist.

7. This Court has already suspended the sentence imposed on A2 vide order dated 26.10.2022 in Crl.M.P.No.15403 of 2022 in Crl.A.No.286 of 2021. The order shows that sentence against A2 was



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suspended, as no overt act could be attributed to A2.

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8. It is no doubt true that a specific overt act has been attributed to the petitioner. However considering the fact that the dispute was between the family members namely A1 and A2 on the one side and the PW1; that the weapon used was a “தூரிக் கத்தி” which is normally carried by agriculturists in villages, the occurrence cannot be said to be premeditated. The possibility of a scuffle cannot be ruled out.

9. Considering the above circumstances and the fact that the petitioner is incarcerated since 19.11.2020 and the appeal is not likely to be taken up in the near future, this Court is inclined to suspend the sentence.

10. Accordingly, this Criminal Miscellaneous Petition stands **allowed** and the sentence of imprisonment imposed on the petitioner is **suspended** and he is granted bail on the following conditions:

- (i) Petitioner 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



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sum to the satisfaction of the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Villupuram.

- (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 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.)
02.11.2023

Index : Yes / No
Neutral Citation: Yes/No
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To

- 1.The Sessions Judge,
Magalir Neethimandram (Fast Track Mahila Court),
Villupuram.
- 2.The Inspector of Police,
Kandachipuram Police Station,
Arakandanallur Circle,
Arakandanallur,
Old Villupuram District.
- 3.The Superintendent,
Central Prison, Cuddalore.
- 4.The Public Prosecutor,
High Court, Madras.



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