



**Crl. M.P. No.6540 of 2023
in Crl. A. No.535 of 2023**

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

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

Seeking to suspend the sentence imposed by the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Erode vide judgment dated 09.01.2023 in S.C. No.92 of 2021, the petitioner/A2 has filed this petition.

2. The case of the prosecution is that the first accused is the family friend of the deceased Karuppanna Gounder and he borrowed substantial amount which accumulated to Rs.14 lakhs; that inspite of several demands, he had not returned the loan amount with interest; that the loan transaction was not supported by any document; that there was a dispute and the first accused got enraged and decided to do away with the family of the deceased; that the mother of the second accused and wife of the first accused are friends; that the first accused promised the second accused, who was studying, that he would secure a Government job if he gives Celphos tablets to the family members of the deceased and make them believe that the tablets are to



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prevent corona virus; that on 26.02.2021 at about 07:30 hours, the petitioner/A2 came to the house of the deceased and informed that they had to take covid test and asked them to take tablets with water before taking test; that the deceased persons Karuppanna Gounder, Mallika, Deepa and Kuppammal took the tablets and within few minutes all the four had severe vomiting; that the first accused with an ulterior motive to murder the family members had thus designed, planned and executed the plan through the second accused. It is admitted that all the four died due to poisoning by consuming tablets.

3. The prosecution examined P.Ws.1 to 28 and marked 19 material objects apart from exhibiting 59 documents. P.W.1 spoke about the motive for the first accused to commit the heinous crime. The evidence of P.W.1 is corroborated by the evidence of several other witnesses. P.W.8 is an independent witness who has seen the second accused with the first accused on the date of occurrence and identified the second accused during the test identification parade conducted by the Judicial Magistrate. The trial Court therefore believed the statement of P.W.8 involving the second accused. The whole case of the prosecution is proved beyond doubt according to the trial Court.



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4. Learned counsel for the petitioner submitted that the presence of the petitioner was not established beyond reasonable doubt. He has also submitted that except the statement of P.W.8, there is no other evidence to connect the petitioner/A2 with the crime. Stating that the petitioner/A2 was studying B.Com and he had no prior motive or *mens rea* to commit the crime, learned counsel submitted that the petitioner had been falsely implicated at the behest of the first accused.

5. This Court is not for a moment at this stage is required to re-appreciate the evidence. The evidence against A2 is strengthened by the statement of P.W.8 who had deposed that he had seen the second accused with the first accused before the occurrence. His identity cannot be doubted. It is also seen that one of the deceased in her statement has pointed out that Celphos tablets are given to them by a person of 20 years old. Even though the first accused has given statement involving the second accused, the trial Court relied upon the evidence of P.W.8 rather than the evidence of first accused.

6. Having regard to the scope of enquiry in the petition to



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suspend the sentence, this Court is prima facie convinced that the material as against the petitioner is sufficient to convict him. This Court is therefore not inclined to suspend the sentence. Accordingly, this criminal miscellaneous petition is dismissed.

(S.S.S.R.,J.) (S.M.,J.)
11.12.2023

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