



Crl.M.P.No.5624 of 2023 in Crl.A.No.449 of 2023

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WEB C S.S.SUNDAR, J.
AND
SUNDER MOHAN, J.

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

The petitioner, who was tried as Accused No.4 in Sessions Case No.76 of 2015 on the file of learned IV Additional Sessions Judge, Chennai, was convicted for the offence under Section 302 r/w 34 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.1000/-, in default to undergo simple imprisonment for 6 months, by the judgment dated 09.03.2023 passed by the trial Court. Challenging the said conviction and sentence, the petitioner has filed the above appeal. The present criminal miscellaneous petition has been filed seeking to suspend the sentence and enlarge him on bail, pending the above appeal.

2. Heard both sides.

3. The case of the prosecution is that on 27.04.2014, there was a



wordy quarrel between the deceased and the accused, A1 to A4; that on the same day, at about 21.30 hours, when the deceased was conversing with his mother Deepa, the accused called the deceased to come out of his house to have a talk; that the mother of the deceased insisted that they should have conversation only in her presence; that at that time, A1 took the knife and stabbed the stomach of the deceased and the deceased was taken to hospital, where he was declared brought dead.

4. On perusal of the records, we find that the conviction of the accused was on the basis of evidence of P.W.1, the mother of the deceased. She deposed that her son had enmity with A1 to A4 and that the accused attacked the deceased. Though the friend of the deceased, who was examined as P.W.2, and other witnesses, who were examined to corroborate the evidence of P.W.1, turned hostile, the evidence of P.W.4 supports the case of the prosecution. No motive can be attributed to P.W.1. The learned counsel for the petitioner relied upon the evidence of P.W.1 during cross examination to the effect that she knew the death of her son through others. This statement alone cannot suggest that P.W.1 has not seen the occurrence.



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Since P.W.1's son was taken to hospital alive, her statement is only about the death of victim and not about the incident. No effective cross examination was done by the defence side to controvert the statement of P.W.1, who was an eye witness. It is submitted that there was no overtact alleged against A4. It is also submitted that A1 is not alive. From the fact that the person who stabbed the deceased to death is no more, it cannot be said that A4's involvement in the commission of crime is doubtful. At this stage, this Court cannot indulge in re-appreciation of evidence. Therefore, finding no prima facie case made out by the petitioner to suspend the sentence, this criminal miscellaneous petition stands dismissed.

(S.S.S.R.,J.) (S.M.,J.)
14.12.2023

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