



*Crl.M.P. Nos.6395 of 2022 and 17261 of 2023
in Crl.A. Nos.376 and 380 of 2021*

**Crl.M.P. Nos.6395 of 2022 and 17261 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 Additional District and Sessions Judge, Hosur vide judgment dated 20.07.2021 in S.C.No.20 of 2017, the petitioners, who are arrayed as A1 and A3 and convicted for the offences under Section 302 r/w 34 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.40,000/- each in default to undergo two years rigorous imprisonment, have filed these petitions.

2. The case of the prosecution is that there was a quarrel between the deceased and A1 and A2 regarding lease of a land; that when the deceased was returning to his house at about 22:00 hours on 03.04.2013, the accused assaulted the deceased with wooden reapers on the head and other parts of the body of the deceased and that the deceased succumbed to the injuries on the same day. The accused were convicted by the learned Additional District and Sessions Judge, Hosur, relying upon the evidence of the prosecution witnesses P.Ws.1 to 18, exhibits Exs.P1 to P23 and M.Os.1 to 9.



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3. Learned counsel for the petitioners submitted that the trial Court has not considered the discrepancies in the evidence of prosecution witnesses i.e., P.Ws.1, 2 and 3 who have given evidence as eye witnesses and are close relatives of the deceased. It is stated that therefore their version without corroboration should not be accepted. The theory of conspiracy and the fact that the deceased was attacked and died out of the serious injuries is not in dispute. The question whether the eye witnesses who have given evidence against the accused have spoken truth or not can be decided at the time of hearing the appeal and this Court at present, having regard to the nature of offence and the manner in which it was committed by the accused, is not inclined to suspend the sentence.

4. Learned counsel for the petitioners submitted that bail was granted in favour of A2 and A4. However, it is to be noted that this Court granted bail to A2 and A4 only after recording the fact that the accused are more aged and they are suffering from health issues. The sentence against the petitioners herein cannot be suspended relying upon the bail granted in favour of A2 and A4.



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Since no prima facie case is made out, this Court is not inclined to suspend the sentence. Accordingly, these criminal miscellaneous petitions are dismissed.

(S.S.S.R.,J.) (S.M.,J.)
24.11.2023

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