



Crl.M.P.No.8315 of 2023
in Crl.A.No.409 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.**]

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the Additional District Judge, Additional District Fast Track Court, Mettur, Salem, in S.C.No.240 of 2021, by judgment dated 15.03.2023 and to enlarge the petitioners/accused on bail pending disposal of the above Criminal Appeal.

2.The petitioners/A1 and A2 are Diploma holders in Mechanical Engineering and they are working in a private company, namely LGP at Pongalur, Tiruppur District. Both the accused are unmarried. The case of the prosecution is that, about five months prior to the date of occurrence, the 1st petitioner/A1 kidnapped one Divya, who is known as daughter of one Sundaram, the younger brother of the *de facto* complainant by giving false promise to marry her; that the deceased was helpful in tracing the 1st petitioner/A1 with the girl and the 1st



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petitioner/A1 and the girl were separated; that therefore, the 1st petitioner/A1 had motive against the deceased; that the 1st petitioner/A1 planned with 2nd petitioner/A2 to do away with the deceased; that on 15.11.2020 at 15.30 hours, within the jurisdiction of Jalakandapuram Police Station, while the deceased was travelling in his two wheeler-Hero Honda Splendor Plus, the appellants waylaid the deceased and the accused took his sickle from his motor cycle tank cover and assaulted the deceased repeatedly with intention to cause his death; that, as a result, the deceased sustained grievous injuries on his head, face, body, right shoulder and right hand and ultimately, the deceased succumbed to the injuries. Hence, the case.

3.The case was tried by the learned Additional District Judge, Additional District Fast Track Court, Mettur, Salem, in S.C.No.240 of 2021, and ultimately, the petitioners/accused were convicted and sentenced as follows :

<i>Accused</i>	<i>Conviction</i>	<i>Sentence</i>
A1 & A2	Section 341 IPC	Simple Imprisonment for one month
	Section 302 r/w. 34 IPC	Life Imprisonment and to pay a fine of Rs.5,000/- each, in default,



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		to undergo Rigorous Imprisonment for three months
	Section 201 r/w.302 IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.5,000/- each, in default, to undergo Rigorous Imprisonment for three months

4.Challenging the above conviction and sentence, the petitioners/accused have filed the above Criminal Appeal and they seek suspension of sentence and bail in the present miscellaneous petition.

5.Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the respondent.

6.Learned counsel for the petitioners pointed out that P.W.6, P.W.7 and P.W.8 are the eye-witnesses, whereas, the Investigation Officer has secured the evidence of P.W.1 to P.W.5 as if they have also witnessed the crime.

7.This Court, on a reading of the entire evidence, is convinced that the evidence of eye-witnesses, namely P.W.6 to P.W.8, are unassailable on account of their cogency. This Court finds no infirmity in the



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judgment of the trial Court. Therefore, this Court is unable to find any
prima facie case to suspend the sentence imposed on the petitioners.

Hence, this Criminal Miscellaneous Petition is dismissed.

(S.S.S.R., J.) (S.M., J.)
06.11.2023

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S.S. SUNDAR, J.



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