



Crl.M.P.Nos.11570 and 4150 of 2023
in Crl.A.No.1104 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.M.P.Nos.11570 and 4150 of 2023
in Crl.A.No.1104 of 2022

1.Govindan ... Petitioner in Crl.M.P.No.11570 of 2023

1. Venkatesh

2. Narayanan @ Narayanasamy

3. Aanji ...Petitioners in Crl.M.P.No.4150 of 2023

Vs.

State Rep. by

The Inspector of Police,
Uddhanapalli Police Station,
Rayakottai Circle,
Krishnagiri District.
Cr.No.59/2013.

Respondent/Complainant in both the Crl.M.Ps

Prayer in Crl.M.P.No.11570 of 2023:- Criminal Miscellaneous Petition filed
under Section 389 (1) of Cr.P.C. to suspend the sentence imposed by the

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learned Additional and District and Sessions Judge, Hosur, Krishnagiri District dated 29.08.2022 in S.C.No.84/2017 and him on bail pending disposal of the above appeal.

Prayer in Crl.M.P.No.4150 of 2023:- Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence imposed by the learned Additional District and Sessions Judge, Hosur, Krishnagiri District dated 29.08.2022 in S.C.No.84 of 2017 and enlarging them on bail pending disposal of the above appeal.

For Petitioners in
both Crl.M.Ps : Mr.N.Sudharsan
For Respondent in
both Crl.M.Ps : A.Gokulakrishnan
Additional Public Prosecutor

COMMON ORDER

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

These Crl.M.P.Nos.11570 and 4150 of 2023 in Crl.A.No.1104 of 2022 have been filed to suspend the sentence imposed on the petitioners / A2, A3, A4 and A5 respectively, by the learned Additional District and Sessions Judge, Hosur, Krishnagiri District in S.C.No.84 of 2017, by the



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judgment dated 29.08.2022, and enlarge the petitioners on bail pending disposal of the above Criminal Appeals.

2.The learned Additional District and Sessions Judge, Hosur, Krishnagiri District in S.C.No.84 of 2017, convicted and sentenced the petitioners herein/A2, A3 A4 and A5, as follows :

Petitioner (accused)	Offence under Section	Sentence imposed
A2 to A5	302 r/w. 34 IPC	Each of them to undergo life imprisonment and to pay a fine of Rs.20,000/- each in default to undergo six months simple Imprisonment.
	201 r/w. 302 IPC	Each of them to undergo rigorous imprisonment for 3 years and to pay a fine of Rs.2,000/- each in default to undergo six months simple imprisonment.
The period of sentences imposed above are directed to run concurrently.		

3.Challenging the above conviction and sentence, the petitioners, who are arrayed as A2 to A5, have filed the above Criminal Appeals and they seek suspension of sentence and bail in the present miscellaneous petitions.

4.Heard Mr.N.Sudharsan, learned Counsel appearing for the petitioners in both the petitions and Mr.A.Gokulakrishnan, learned



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Additional Public Prosecutor, appearing for the respondent/State.

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5. The case of the prosecution is that on 16.06.2013 at about 7:00 a.m., the complainant and her husband (deceased) were doing agricultural work in their field along with their sons and at that time, the accused A1 to A5 were crossing the pathway in respect of which there was already a dispute. The further case of the prosecution is that when the deceased and his sons questioned the accused/A1 to A5, with an intention to cause death on the deceased, they had beaten the deceased with wooden log on his neck and the third accused grabbed the knife from the eyewitness and stabbed the deceased on his face and other parts. It is the further case of the prosecution that A4 and A5 also had beaten the deceased with their hands and leg to commit the murder of the deceased. The Trial Court held that the accused are guilty of committing murder under Section 302 of IPC and other offence.

6. PW1 is the wife of the deceased and who was examined as eyewitness, lodged a complaint under Ex.P.1. P.W.3 is another eyewitness, who has also deposed to the effect that he came to the scene of occurrence



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on hearing the sound. All other witnesses were examined to corroborate the evidence of P.W.1 to P.W.3.

7. The learned Counsel for the petitioners submits that the trial Court failed to note that Ex.P1- the complaint was authored by the police; that PW1-wife and PW4-daughter of the deceased have adduced evidence to that effect; that the second accused is now admitted for his mental illness in Government Mental Hospital, Kilpauk, Chennai and the other petitioners are in custody from the date of conviction i.e. since 29.08.2022; and therefore, prayed to suspend the sentence imposed on the petitioners.

8. Heard the learned Additional Public Prosecutor who vehemently opposed for grant of the relief of suspension of sentence to the petitioners herein as there are specific overt act against the petitioners herein. Further, the motive for committing the crime is also proved by the prosecution and that the prosecution has proved its case beyond reasonable doubt and hence, prayed for dismissal of the petitions.

9. It is an admitted fact that P.W.4 gave the complaint based on the



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notes already prepared by the Police. P.W.2, who is one of the sons of the accused, had deposed to the effect that his mother (P.W.1) is involved in the commission of murder of the deceased (his father). The Trial Court has not considered this evidence which is inconsistent with the prosecution case. Despite the fact that P.W.1, P.W.2 and P.W.4 turned hostile, the Trial Judge, had found the accused guilty. This Court *prima facie* finds from the evidence on record that the prosecution has not established the case against the accused. Therefore, this Court considering the above referred evidence, the period of incarceration and that the appeal is not likely to be taken up for hearing in the near future, is inclined to Suspend the Sentence imposed on the petitioners herein.

11. Accordingly, this criminal miscellaneous petitions stand **allowed** and the sentence of imprisonment imposed on the petitioners (A2 to A5) is suspended on the following conditions:

- (i) The petitioners 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 sum to the satisfaction of the learned District



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Munsif cum Judicial Magistrate Denkanikottai, Krishnagiri
District;

- (ii) The petitioners and 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;
- (iii) The petitioners (A3 to A5) 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 they are not able to appear before the trial Court on any day, they 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.
- (iv) So far as Accused No.2, is concerned, he has to appear before the Trial Court once in a month, until the disposal of the appeal, after his discharge from the Government Mental Hospital, Kilpauk, Chennai, since it is reported that he is now taking treatment as inpatient in the said hospital.



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(S.S.S.R., J.)

(S.M., J.)

16.10.2023

ars/dk

Internet : Yes

Index : Yes / No



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

dk

To

- 1.The District Munsif Cum Judicial Magistrate
Denkanikottai,
Krishnagiri District.
- 2.The The Inspector of Police,
Uddhanapalli Police Station,
Rayakottai Circle,
Krishnagiri District.
- 3.The Superintendent,
Central Prison,
Vellore,
Vellore District.
- 4.The Public Prosecutor,
High Court, Madras.

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