



WEB COPY



CrI.M.P.No.13465 of 2022
in CrI.A.No.977 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 23.12.2022

Pronouncing orders on : 09.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.M.P.No.13465 of 2022
in CrI.A.No.977 of 2022

1.Venkatesan

2.Nagalingam

..Petitioners

Vs.

The State rep. by its
The Inspector of Police
Elavanasurkottai Police Station
Villupuram District.
(Crime No.66/2014)

... Respondent

Prayer : Criminal Miscellaneous Petition filed under Section 389 of Cr.P.C., to set aside the conviction and sentence against the appellant in S.C.No.39 of 2015 passed by the learned Additional Sessions Judge, Villupuram dated 14.07.2022 and allow this appeal.

For Petitioner : Mr. S.Saravana Kumar

For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor



WEB COPY



CrI.M.P.No.13465 of 2022
in CrI.A.No.977 of 2022

ORDER

N. ANAND VENKATESH, J.

This petition has been filed seeking for suspension of sentence imposed in S.C.No.39 of 2015 by the learned Additional Sessions Judge, Villupuram through judgment and order dated 14.07.2022.

2.The case of the prosecution is that there was an election dispute between the deceased Krishnamoorthy and the group belonging to A1. Since the deceased was seriously engaged in the campaigning during the elections, the accused persons developed an enmity against him. On 24.04.2014 at about 3.30 p.m., near the Aanchaneyar Temple at Thirukoilur, the deceased was going in his two wheeler and he was waylaid and was taken to the mechanic shed belonging to one Mahadevan and the deceased was attacked indiscriminately by the accused persons resulting in his instantaneous death. There were originally sixteen accused persons in this case and except the petitioners (A1 and A12), all the other accused persons were acquitted from all charges.

3. The petitioners were convicted and sentenced by the Court below in

<https://www.mhc.tn.gov.in/judis>



CrI.M.P.No.13465 of 2022
in CrI.A.No.977 of 2022

S.C.No.39 of 2015, in the following manner:

Rank of the Accused	Provision under which convicted	Sentence/Punishment
A1	Section 148 IPC	Six months Simple Imprisonment.
	Section 341 IPC	One month Simple Imprisonment.
	Section 302 r/w 149 IPC	Life Imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo two months rigorous Imprisonment.
A12	Section 148 IPC	Six months Simple Imprisonment.
	Section 341 IPC	One month Simple Imprisonment.
	Section 342 IPC.	Three months Simple Imprisonment.
	Section 427 IPC.	Six months Simple Imprisonment.
	Section 302 r/w 149 IPC	Life Imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo two months rigorous Imprisonment.

4.Heard Mr.S.Saravana Kumar, learned counsel appearing on behalf of the

<https://www.mhcopia.org/> petitioners and Mr.R.Muniyapparaj, learned Additional Advocate General



Cr.L.M.P.No.13465 of 2022
in Cr.L.A.No.977 of 2022

appearing on behalf of the respondent.

5.The main contention that was raised by the learned counsel for the petitioners is that the petitioners are also similarly placed and hence, the benefit of doubt must have been extended to the petitioners also. It was further contended that the entire incident happened inside the mechanic shed and hence, the eye witnesses PW1 and PW2 could not have seen the incident. The further submission that was made by the learned counsel for the petitioners is that PW1 and PW2 were interested witnesses and they were exaggerating the entire incident and a specific finding was given in this regard by the Court below. In spite of the same, the Court below proceeded to convict and sentence the petitioners only based on the alleged recovery after their arrest.

6.Considering the facts and circumstances of the case and also considering the fact that the petitioners have already suffered incarceration for a period of nearly six months and that there are arguable points involved in the appeal and further, the petitioners have no bad antecedents, we are inclined to suspend the sentence imposed by the Court below in S.C.No.39 of 2015 dated 14.07.2022, subject to the following conditions:-

(i) The petitioners shall execute a bond for a sum of Rs.25,000/-,
<https://www.mhc.tn.gov.in/judis>



WEB COPY



CrI.M.P.No.13465 of 2022
in CrI.A.No.977 of 2022

with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Additional Sessions Judge, Villupuram.

- (ii) 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 cards or Bank passbooks to ensure their identity; and
- (iii) The petitioners shall appear before the respondent police every Monday at 10.30 a.m., for a period of eight weeks. After completion of the said period, the petitioners shall report before the learned Additional Sessions Judge, Villupuram, on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he 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.

Accordingly, this Criminal Miscellaneous petition is disposed of.

(P.N.P.,J.)

(N.A.V.,J.)

09.01.2023



CrI.M.P.No.13465 of 2022
in CrI.A.No.977 of 2022

Index : Yes/No

Speaking order /Non-Speaking order
ssr



WEB COPY



CrL.M.P.No.13465 of 2022
in CrL.A.No.977 of 2022

P.N.PRAKASH,J.

and

N. ANAND VENKATESH,J.

SSR

To

- 1.The Additional Sessions Judge,
Villupuram.
- 2.The Superintendent of Prison,
Central Prison, Cuddalore.
- 3.The Inspector of Police
Elavanasurkottai Police Station
Villupuram District.
- 4.The Public Prosecutor
High Court of Madras.

Pre-Delivery Order in
CrL.M.P.No.13465 of 2022
in CrL.A.No.977 of 2022

09.01.2023