



CrL.MP.No.10992/2023 in CrL.A.No.1190/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.10.2023

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrL.MP.No.10992/2023 in CrL.A.No.1190/2022

A.Ramalingam

..

Petitioner

Versus

State through
The Inspector of Police
Mangalampet Police Station
Vridhachalam Taluk
Cuddalore District.

..

Respondent

Prayer:- Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence of imprisonment imposed by the judgment passed by the learned III Additional District and Sessions Judge, Cuddalore, at Virudhachalam in Sessions Case No.207/2019 dated 11.10.2022 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

For Petitioner : Mr.R.Ganesh Kumar
For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

[Order of the Court was made by S.S.SUNDAR, J]

- (1) This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner vide judgment dated 11.10.2022 passed in S.C.No.207/2019 on the file of the learned III Additional District and Sessions Judge, Virudhachalam Cuddalore District, and to enlarge the petitioner on bail pending disposal of the appeal.
- (2) The petitioner, who is the sole accused in the above Sessions Case, was convicted under Section 302 IPC and was sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/-, in default to undergo three months simple imprisonment for the said offence.
- (3) The case of the prosecution is that PW1 is the daughter of the paternal uncle of the accused/petitioner. The deceased Manjamuthu is the husband of PW1. There existed a previous enmity between the families of the petitioner's father and the father of PW1 in relation to properties and a case was also pending. Since the deceased Manjamuthu was



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supporting his father-in-law / father of PW1, the accused developed enmity on the deceased. While so, on the date of occurrence, i.e., on 25.12.2018 at about 7.30 a.m., when the deceased was standing in front of the cremation ground in Siruvambar Village, the petitioner / accused came there and a wordy altercation arose between them. The petitioner took a wooden stick found in the scene of crime and attacked the deceased on both knees and stomach of the deceased. This occurrence was witnessed by PW6. The deceased was taken to the Government Hospital, Ulundurpet for First Aid and thereafter, to Mundiambakkam Government Hospital for further treatment and subsequently, the deceased was taken to the Rajiv Gandhi Government Medical College Hospital at Chennai and despite treatment, the deceased succumbed to the injuries on 29.12.2018. Hence, the complaint.

- (4) Heard the learned counsel for the petitioner and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor appearing for the respondent/State.
- (5) The learned counsel for the petitioner would contend that the prosecution has not proved its case beyond reasonable doubt and the same suffers



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from serious infirmities and inconsistencies The learned counsel appearing for the petitioner would put forth the following contentions:-

[a] The eyewitnesses to the occurrence, namely, Pws.6, 9 and 10 have turned hostile and had not supported the case of the prosecution.

[b] The prosecution case rests on the evidence of PW1-wife of the deceased who is a hearsay witness and she is not an eyewitness to the occurrence and her evidence is doubtful. Further, PW1 is also an interested witness as there existed previous enmity between the deceased and the petitioner/accused with respect to the property dispute.

[c] Further, the conviction of the petitioner is also based on the dying declaration said to have been given by the deceased to his wife/PW1 and the same cannot be given much credence.

[d] The scuffle between the accused and the deceased cannot be ruled out, the act of the petitioner was without any premeditation and it is an outcome of sudden provocation.

In the above circumstances, he prays for the grant of the relief of suspension of sentence to the petitioner herein.



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(6) Per contra, Mr.A.Gokulakrishnan, learned Additional Public Prosecutor contended that the prosecution has established its case beyond all reasonable doubts and the minor discrepancies found in the evidence of the prosecution witnesses will not affect the prosecution case in its entirety and hence, he would submit that it is not a fit case to grant the relief sought for.

(7) Considering the aforesaid facts and circumstances of the case and taking into consideration the fact that the injuries suffered by the deceased are not on the vital parts of the body and that the findings of the Trial Court appears to be not based on sound evidence and further that the appeal is not likely to be taken up for final hearing in the near future and that the petitioner is undergoing incarceration right from 11.10.2022, we are of the considered view that it is a fit case to grant the relief of suspension of sentence to the petitioner herein.

(8) Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment is **suspended** and the sentence imposed on the petitioner is suspended on the following conditions:



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- (i) The petitioner shall surrender before the trial Court within 10 days from today and execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Virudhachalam;
- (ii) The petitioner 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; and
- (iii) The petitioner 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 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



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Court on any other day in lieu of the date of his
absence, as directed by the trial Court.

[SSSRJ] [SMJ]
10.10.2023

AP

To

- 1.The III Additional District Sessions Judge
Virudhachalam. Cuddalore District.
- 2.The Judicial Magistrate No.2,
Virudhachalam.
- 3.The Inspector of Police,
Mangalampet Police Station,
Viridhachalam Taluk, Cuddalore District.
- 4.The Superintendent of Prisons
Central Prison, Cuddalore.
- 5.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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S.S.SUNDAR, J

and

SUNDER MOHAN, J

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