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**Crl. M.P. No.14884 of 2023
in Crl. A. No.1018 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 suspension of sentence imposed by the Sessions Judge, Sessions Court for Trial of Bomb Blast Cases, Coimbatore vide judgment dated 25.11.2022 in S.C. No.179 of 2021, the petitioner/accused has filed this petition.

2. By the aforesaid judgment, the petitioner was convicted and sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/- in default to undergo one year rigorous imprisonment for the offence under Section 302 IPC.

3. The case of the prosecution is that the petitioner is the husband of the defacto complainant; that the defacto complainant is none else than the sister of the deceased and she also gave evidence as P.W.1 being an eye witness to the occurrence; that the husband of P.W.1 viz., the petitioner used to quarrel with the defacto complainant in drunken mood; that on 21.07.2021 at about



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10.00 p.m., in the house of P.W.1, when the accused was quarrelling with P.W.1 in a drunken mood, the younger brother of P.W.1, who is the deceased questioned the accused for his misbehaviour; that enraged by this, the petitioner stabbed the deceased with M.O.1 knife on his chest and stomach and that the deceased was taken to hospital in 108 ambulance where the deceased was declared dead; that a case was registered against the petitioner in Crime No.179 of 2021 on the complaint given by P.W.1, who is none else than the wife of the accused; after a detailed investigation, charge sheet was filed against the petitioner under Sections 302 and 294 (b) IPC; that during trial, the prosecution examined P.Ws.1 to 16 apart from marking Exs.P1 to P22 and material objects M.Os.1 to 8; that the trial Court relying upon the evidence of P.W.1 convicted the petitioner for the offence under Section 302 IPC.

4. Learned counsel for the petitioner relied upon the evidence of sons of the petitioner who are also examined as P.Ws.2 and 3 as eye witnesses. It is also pointed out by the learned counsel that another brother of P.W.1 viz., brother-in-law of the petitioner, who was examined as P.W.4 turned hostile along with P.Ws. 2 and 3/ sons of the petitioner. In view of the fact that three eye witnesses



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have turned hostile, learned counsel pointed out that case of the prosecution was not established beyond doubt.

5. This Court, after going through the evidence of P.W.1, is convinced that P.W.1 has no motive against the petitioner/her husband to give false evidence implicating him. It is quite natural that the two sons and another brother-in-law of the petitioner/accused turned hostile as they have personal interest to protect the petitioner. Merely because two other witnesses who have been shown as eye witnesses turned hostile, this Court is unable to find prima facie case in favour of the petitioner. The evidence of P.W.1 is cogent and is corroborated by all other evidence adduced.

6. In view of the above, we are not inclined to suspend the sentence. Accordingly, this criminal miscellaneous petition is dismissed.

(S.S.S.R.,J.) (S.M.,J.)
07.11.2023

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