



Crl.MP.No.13564/2022 & 14414/2022 in Crl.A.Nos.984 & 1073/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.10.2023

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.13564/2022
& 14414/2022 in Crl.A.Nos.984 & 1073/2022

1.S.Banumathi
2.R.Sivaranjani
3.L.Ranganathan
4.Chitra

.. Petitioners / A1
to A4 in
Crl.MP.No.13564/2022

Sakunthala

.. Petitioner
/ A6 in Crl.MP.No.14414/2022

Versus

State through
The Inspector of Police
Chitode Police Station, Chitode
Erode District.

.. Respondent
in both petitions

Prayer in Crl.MP.No.13564/2022:- Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed in the judgment and conviction passed in SC.No.91/2019 dated 23.08.2022 on the



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file of the learned II Additional District and Sessions Judge, Erode and release the petitioner on bail pending criminal appeal.

Prayer in Crl.MP.No.14414/2022:- Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence passed in judgment in SC.No.91/2019 dated 23.08.2022 on the file of the learned II Additional District and Sessions Judge, Erode and enlarge the petitioner on bail pending criminal appeal.

For Petitioners in

Crl.MP.No.13564/2022 : Mr.B.Mohan

For Petitioner in

Crl.MP.No.14414/2022 : Ms.C.Sindjuja

For Respondent in both

Petitions : Mr.A.Gokulakrishnan
Additional Public Prosecutor

COMMON ORDER

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

(1)The above criminal miscellaneous petitions have been filed seeking to suspend the sentence imposed on the petitioners vide judgment dated 23.08.2022 passed in S.C.No.91/2019 on the file of the learned II Additional District and Sessions Judge, Erode, and to enlarge the petitioners on bail pending disposal of the appeal.

(2)The petitioners in Crl.MP.No.13564/2022 are arrayed as A1 to A4 and the petitioner in Crl.MP.No.14414/2022 is arrayed as A6 out of six



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accused in the above Sessions Case. Pending trial, the 5th accused, Kalyani died and hence, the charge against the 5th accused stood abated.

The petitioners are convicted for the offence under Section 304 [i] r/w 34 of IPC and each of them were sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/- each, in default to undergo three months simple imprisonment for the said offence.

(3) The case of the prosecution is that the deceased Selvan @ Chithuraj is the son of PW1. A1 to A6 are neighbours of PW1. Earlier, the deceased was sentenced to undergo 10 years rigorous imprisonment for abetting suicide of one Pushpa @ Pushapavathi. Subsequently, the deceased sustained head injury and was mentally ill. While so, on 07.12.2017, at 6.30 a.m., the deceased came to drink water in a common water tap and removed the water pot kept under the tap kept by somebody. A1, A2, A4, A5 and A6 questioned the act of the deceased. There arose a strife between the deceased and the accused. PW1 tried to compromise the quarrel. In the meanwhile, A3 came there and questioned the deceased. The deceased took a knife which was in his possession and attacked A3 on the right shoulder. Thereafter, all the accused joined together and assaulted the



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deceased with wooden sticks in order to do away with the deceased. The deceased was taken to hospital by both PW1 and the accused where he was declared brought dead. Hence, the complaint.

(4) Heard the respective learned counsel for the petitioners and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor appearing for the respondent/State.

(5) The respective learned counsel for the petitioners would contend that the prosecution has not proved its case beyond reasonable doubt and the same suffers from serious infirmities and inconsistencies. The learned counsels would put forth the following contentions:-

[a] The entire occurrence started at the instance of the deceased who attacked A3-Ranganathan with a knife which was in his possession.

[b] Except A3, all the other accused are women who are neighbours and assembled to collect drinking water from the common connection.

[c] Further, the occurrence took place due to a sudden quarrel without any premeditation.

[d] The accused attacked the deceased only as a self defence and no motive can be attributed.



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[e] Except PW1, the mother of the deceased who had spoken about the occurrence, the other eyewitnesses have turned hostile and not supported the case of the prosecution.

In the above circumstances, they pray for the grant of the relief of suspension of sentence to the petitioners herein.

(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 except A3, all the other accused are women and that the occurrence took place due to a sudden quarrel and at the instance of the deceased who alone was in possession of the lethal weapon and that the prosecution case is not supported by any strong evidence and further that the appeal is not likely to be taken up for final hearing in the near future and that the petitioners are undergoing



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incarceration right from 23.08.2022, 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, the criminal miscellaneous petitions stand **allowed** and the sentence of imprisonment of the petitioners is **suspended** on the following conditions:

- (i) Each of the petitioners shall execute a bond for a sum of Rs.25,000/-, with two sureties each, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Erode;
- (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 cards or Bank Pass Books and mobile numbers to ensure their identity; and
- (iii) The petitioners shall appear before the trial Court



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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 applications under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the trial Court.

[SSSRJ] [SMJ]
11.10.2023

AP



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To

- 1.The II Additional District Sessions Judge
Erode.
- 2.The Judicial Magistrate No.2,
Erode.
- 3.The Inspector of Police
Chitode Police Station, Chitode
Erode District.
- 4.The Superintendent of Prisons
Central Prison, [Women's Block], Coimbatore.
- 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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