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Crl.M.P.No.12905 of 2023
in Crl. A. No.906 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 to suspend the sentence imposed by the learned III Additional District and Sessions Court, Tirupattur vide judgment dated 26.06.2023 in S.C.No.164 of 2021, the petitioners/A1 to A3 have filed this petition.

2. It is the case of the prosecution that PW1 is the younger brother of the deceased/Anandababu, who was doing finance business. The deceased fell in love with one Saraswathy. Both the families of deceased/Anandababu and Saraswathy had made arrangements for their marriage. Prior to that, the said Saraswathy had love affair with A1 and after she fell in love with the deceased/Anandababu, she had stopped talking with A1. This has infuriated A1 to develop enmity towards the deceased and he decided to eliminate him. Pursuant to such enmity, A1 conspired with A2 and A3 to do away the deceased/Anandababu and



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murdered him. PW1 has spoken about the motive and also the occurrence. The prosecution has substantiated charges through PW1 and PW6. There is nothing brought on record to doubt the veracity of the testimony of PW1 and PW6. The trial Court, after examining 12 witnesses as P.Ws.1 to 12 and marking Exs.P1 to P27 and M.Os.1 to 11, found the petitioners guilty of the offence under Section 302 IPC r/w Section 34 IPC, convicted and sentenced them to undergo life imprisonment and to pay a fine of Rs.10,000/- each, in default, to undergo six months simple imprisonment. Aggrieved by the order of conviction, the above appeal is filed by the petitioners/accused. Pending appeal, the present petition is filed for suspension of sentence.

3. Though the learned counsel for the petitioners point out that there is a glaring discrepancy in the statement under Section 161 Cr.P.C. and the evidence of P.W.1 and other witnesses, based on which the Trial Court convicted the petitioners, this Court finds no glaring irregularity. First of all the statement under Section 161 Cr.P.C. is not admissible. The trial Court has convicted the accused based on material evidence and there is no glaring error or omission. Since the argument of the learned counsel for the



Crl.M.P.No.12905 of 2023
in Crl. A. No.906 of 2023

petitioners is on appreciation of evidence, this Court for a moment is not inclined to consider the same.

4. Prima facie, this Court, on the overall circumstances, finds there are material evidence including the evidence of P.W.1, who is the eye witness. Therefore, this miscellaneous petition is dismissed as the petitioners have not made out any prima facie case for suspension of sentence.

(S.S.S.R.,J.) (S.M.,J.)
22.12.2023

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