



Crl,M.P.No.2641 of 2023 in
Crl.A.No.173 of 2023

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DATED: 23.02.2023

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.MP No.2641 of 2023 in
Crl.A No.173 of 2023

R.Jagan

... Petitioner

Vs.

State rep. by the Inspector of Police,
Thuraipakam Police Station,
Chengalpattu District.
(Crime No.498/2014)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed on the petitioner in S.C.No.11 of 2015, vide order dated 29.11.2019 passed by the learned Additional District and Sessions Judge, Chengalpet, pending disposal of the above Criminal Appeal.

For Petitioner : Mr.M.V.Bibin Mahesh

For Respondent : Mr.C.E.Pratap,
Govt. Advocate (Crl.Side)



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ORDER

This petition has been filed to suspend the sentence imposed on the petitioner, vide judgment dated 29.11.2019 in S.C.No.11 of 2015 passed by the learned Additional District and Sessions Judge, Chengalpet, pending disposal of the above Criminal Appeal.

2. The learned Trial Judge, vide order dated 29.11.2019 passed in S.C.No.11 of 2015 convicted and sentenced the petitioner, as hereunder.

<i>provision under which convicted</i>	<i>Sentence</i>
Sec.304 (ii) IPC	10 years rigorous imprisonment

3. Aggrieved by the judgment of conviction passed by the Trial Court, the petitioner preferred the present Criminal Appeal along with the instant petition, seeking to suspend the sentence of imprisonment.

4. The learned counsel for the petitioner submitted that the deceased is



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the father and the accused is his son. There is no direct evidence and based on circumstantial evidence, the trial Court found guilty for the offence under Section 304(ii) IPC. Further, the circumstances relied by the prosecution is not established by sufficient evidence. The learned counsel for the petitioner further submitted that there are arguable points in the Criminal Appeal as the conviction was solely based upon the circumstantial evidence and there would be fair chances of getting success in the appeal. He further submitted that, the petitioner is in judicial custody from 14.07.2017 and hence, prayed for suspension of sentence.

5.The learned Government Advocate (Crl.side) appearing for the respondent would submit that depending upon the circumstantial evidence, the accused/petitioner, who is the son of the deceased was convicted and remanded to judicial custody.

6.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. side) appearing for the respondent and perused

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7. The fact reveals that the respondent police registered a case in Crime no.498 of 2014 and after investigation, filed a final report, which was taken on file in SC.No.11 of 2015. After trial, the petitioner was prosecuted for the offence alleged under Section 302 and convicted under Section 304(ii) IPC.

8. Taking into consideration of the submission of the learned counsel appearing for the petitioner and considering the nature of offence, this Court finds that, the petitioner has substantial grounds in this Criminal Appeal, which require detailed appraisal. Therefore, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence.

9. Accordingly, it is ordered as follows.

(i) The substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the

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petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate II, Alandur, Chennai.

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the above said Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) The petitioner shall appear before the Trial Court, as and when required.

23.02.2023

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To

1. The learned Additional District and Sessions Judge, Chengalpet
2. The Superintendent, Central Prison, Puzhal-1, Chennai..
3. The Public Prosecutor, High Court of Madras, Chennai.
4. Judicial Magistrate II, Alandur, Chennai



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V.SIVAGNANAM, J.,

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