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Crl.M.P.No.17999 of 2023
in Crl.A.No.129 of 2021

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S.S. SUNDAR, J.
and
SUNDER MOHAN, J.

[Order of the Court was made by **SUNDER MOHAN, J.**]

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner/A1 by the II Additional District and Sessions Judge, Vellore @ Ranipet, in S.C.No.176 of 2018, by judgment dated 18.02.2021, and to enlarge the petitioner/A1 on bail pending disposal of the above Criminal Appeal.

2.It is the case of the prosecution that the petitioner/A1 along with A2 illegally loaded sand in a tractor along with three others; that except the petitioner, the other accused fled the scene of occurrence; that the petitioner was the driver of the tractor; that when the deceased, a Police Constable who was present at the place of occurrence, to prevent the illegal sand theft, tried to nab the petitioner, the petitioner ran over the tractor on the deceased which resulted in death of the deceased. Therefore, a case was registered in Crime No.128 of 2014 against the



CrI.M.P.No.17999 of 2023
in CrI.A.No.129 of 2021

accused for the offences under Sections 430, 379, 294(n), 353 and 302
IPC.

3.The criminal case then culminated into S.C.No.176 of 2018 and was tried by the learned II Additional District and Sessions Judge, Vellore @ Ranipet, and ultimately, the petitioner/A1 was convicted and sentenced as follows :

<i>Conviction</i>	<i>Sentence</i>
Section 353 IPC	Fine of Rs.2,000/-, in default, to undergo three months simple imprisonment.
Section 302 IPC	Life imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo one year simple imprisonment for six months

4.Challenging the above conviction and sentence, the petitioner/A1 has filed the above Criminal Appeal and he is seeking suspension of sentence and bail in the present miscellaneous petition.

5.Learned counsel for the petitioner submitted that though P.W.1 had stated in the complaint that five persons were involved in the offence, the final report was filed against the petitioner/A1 and A2 and hence, the trial Court ought not to have believed the evidence of P.W.1 who is an



CrI.M.P.No.17999 of 2023
in CrI.A.No.129 of 2021

WEB COPY

interested witness; that the earliest complaint was suppressed by the prosecution and that the presence of P.W.1 at the time of occurrence is highly doubtful. The learned counsel further submitted that the recoveries said to have been made from the petitioner and A2 cannot be believed.

6.*Per contra*, learned Additional Public Prosecutor appearing for the respondents has submitted that the prosecution has established their case beyond reasonable doubt and the appellant has not made out any case for suspension of sentence.

7.We find on perusal of records, the judgment of the trial Court, and the submissions made by the learned counsel for the petitioner, that the points raised by them involves detailed appreciation of evidence which cannot be done at this stage while considering the petition for suspension of sentence. The points raised have to be appreciated only during the hearing of the appeal. Hence, we are not inclined to suspend the sentence.



CrI.M.P.No.17999 of 2023
in CrI.A.No.129 of 2021

WEB COPY

8. Therefore, this Criminal Miscellaneous Petition deserves to be dismissed and hence, dismissed.

(S.S.S.R., J.) (S.M., J.)
15.12.2023

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WEB COPY



Crl.M.P.No.17999 of 2023
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Crl.M.P.No.17999 of 2023
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