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Crl.M.P.No.19557 of 2022
in Crl.A.No.5 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 23.12.2022

Pronouncing orders on : 09.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.M.P.No.19557 of 2022
in Crl.A.No.5 of 2022

Balachandiran

..Petitioner

Vs.

Th State represented by
The Inspector of Police
Uthukuli Police Station
Tiruppur District.
(Crime No.387/2018)

... Respondent

Prayer : Criminal Miscellaneous Petition filed under Section 389 of Cr.P.C., to suspend the sentence of imprisonment imposed in the judgment dated 01.11.2021 made in S.C.No.41 of 2019 on the file of the learned Principal Sessions Court, Tiruppur and enlarge the petitioner on bail pending disposal of the above Criminal Appeal before this Court.

For Petitioner : Mr.N.Manoharan

For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor



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ORDER

N. ANAND VENKATESH, J.

This petition has been filed seeking for suspension of sentence imposed in S.C.No.41 of 2019 by the learned Principal Sessions Court, Tiruppur through judgment and order dated 01.11.2021.

2.The case of the prosecution is that the petitioner is the son-in-law of the deceased Sundaresan and the deceased was working as a Noon Meal Scheme Organizer. The petitioner had purchased lands measuring an extent of 3.34 cents. In the year 2012, the deceased requested for a loan from the petitioner and the petitioner gave the loan after mortgaging his property to one Murugsamy for Rs.1,50,000/- The deceased failed to repay the loan amount and hence, the petitioner was forced to convey his property in the name of Murugsamy. Even thereafter, the deceased paid only a sum of Rs.1,20,000/- and there was a balance of Rs.30,000/- due and payable.

3.The further case of the prosecution is that the petitioner requested the deceased to repay back the balance amount and there were regular wordy quarrels. On 01.09.2018 at about 9 p.m., there was some quarrel between the



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petitioner and his wife and the deceased along with PW3 and PW1 came and tried to pacify the petitioner. The petitioner is said to have stabbed the deceased on his chest and the deceased died on the spot.

4.The petitioner was convicted and sentenced by the Court below in S.C.No.41 of 2019, in the following manner:

Conviction for offence under	Sentence/Punishment
Section 302 IPC	Life imprisonment and to pay a fine of Rs.1000/- and in default, to undergo simple imprisonment for three months.

5.Heard Mr.N.Manoharan, learned counsel appearing on behalf of the petitioner and Mr.R.Muniyapparaj, learned Additional Advocate General appearing on behalf of the respondent.

6.It was contended that the evidence of PW1 to PW3 who were the eye witnesses to the incident was not in line with the evidence of PW19 and the very presence of PW1 to PW3 in the scene of crime was questioned. Even in the evidence of PW1 to PW3, various contradictions were pointed out. There was a delay of twelve hours in despatching the FIR to the Magistrate Court and the same has not been explained.



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7.Considering the facts and circumstances of the case and also considering the fact that the petitioner has already suffered incarceration for a period of nearly six months and that there are arguable points involved in the appeal and further, the petitioner has no bad antecedents, we are inclined to suspend the sentence imposed by the Court below in S.C.No.41 of 2019 dated 01.11.2021, subject to the following conditions:-

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Principal Sessions Court, Tiruppur.
- (ii) 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 passbooks to ensure their identity; and
- (iii) The petitioner shall appear before the respondent police every Monday at 10.30 a.m., for a period of eight weeks. After completion of the said period, the petitioner shall report before the learned Principal Sessions Court, Tiruppur, on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court



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on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

Accordingly, this Criminal Miscellaneous petition is disposed of.

(P.N.P.,J.) (N.A.V.,J.)

09.01.2023

Internet : Yes/No
Index : Yes/No
Speaking order /Non-Speaking order
ssr

To

- 1.The Principal Sessions Court,
Tiruppur.
- 2.The Superintendent of Prison,
Central Prison, Coimbatore.
- 3.The Inspector of Police
Uthukuli Police Station
Tiruppur District.
- 4.The Public Prosecutor
High Court of Madras.



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P.N.PRAKASH,J.

and

N. ANAND VENKATESH,J.

SSR

Pre-Delivery Order in
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09.01.2023