



Crl.M.P.No.17919 of 2023 in Crl.A.No.1282 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2023

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

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Crl.A.No.1282 of 2023

1.Annadurai @ Chandrasekaran,
S/o.Kasinathan.

2.Vinayagamoorthy,
S/o.Gopal.

2.Settu,
S/o.Kuppusamy.

... Petitioners

Vs.

The State, represented by
Inspector of Police,
Thiruppapuliur Police Station,
Cuddalore District.
(Crime No.311/2009.

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389(1) of Cr.P.C., to suspend the sentence imposed in S.C.No.109 of 2017 dated 31.10.2023 on the file of First Additional District Sessions Court, Cuddalore and enlarge the petitioner on bail, pending disposal of the above Crl.Appeal on the file of this Court.

For Petitioner : Mr.R.Sankarasubbu

For Respondent : Mr.S.Vinoth Kumar,
Additional Public Prosecutor



ORDER

This Criminal Miscellaneous Petition has been filed by the petitioners seeking suspension of sentence of imprisonment imposed by the learned I Additional District & Sessions Judge, Cuddalore (trial Court), *vide* judgment, dated 31.10.2023 made in S.C.No.109 of 2017 and enlarge the petitioners on bail pending disposal of the above appeal.

2.The conviction and sentenced imposed on the petitioners/A1, A2 & A4 is as follows:

- For offence under Section 147 of IPC, the petitioners/A1, A2 & A4 convicted and sentenced to undergo Simple Imprisonment for a period of six months and to pay a fine of Rs.3,000/- each in default to undergo Simple Imprisonment of eight weeks.
- For offence under Section 447 of IPC, the petitioners/A1, A2 & A4 convicted and sentenced to undergo Simple Imprisonment for a period of three months.
- For offence under Section 323 of IPC, the 1st petitioner/A1 convicted and sentenced to undergo Simple Imprisonment for a period of six months and to pay fine of Rs.1,000/- in default to undergo Simple Imprisonment of four weeks.
- The petitioners 2 and 4 acquitted from offence under Sections 294(b),



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341 of IPC and Section 3 of the Tamil Nadu Public Property (Damage and Loss) Act. The 1st petitioner acquitted from offence under Sections 294(b), 341 of IPC and Section 3 of the Tamil Nadu Public Property (Damage and Loss) Act and 506(iii) of IPC.

3. Aggrieved over the conviction and sentence, the petitioner filed the appeal and the present Suspension of Sentence.

4. The contention of the learned counsel for the petitioners is that in S.C.No.109 of 2017, there were totally fifteen accused. During trial, A3, A9, A11 and A15 died, the charges against them abated. The case against A1, A2, A4 to A8, A10, A12 to A15 progressed and finally, the trial Court by judgment, dated 31.10.2023 convicted the present petitioners, acquitted the remaining accused. As regards the petitioners 2 and 4 are concerned, they were acquitted for offence under Sections 294(b), 341 of IPC and Section 3 of the Tamil Nadu Public Property (Damage and Loss) Act. As regards the 1st petitioner is concerned, he was acquitted from offence under Sections 294(b), 341 of IPC and Section 3 of the Tamil Nadu Public Property (Damage and Loss) Act and 506(iii) of IPC.



5.The learned counsel further submitted that during investigation and trial, the petitioners were on bail and now, the trial Court also suspended the sentence of the petitioners for a period of thirty days till 13.11.2023. He further submitted that there is some dispute over the property with the adjacent land owners, due to which, there was wordy quarrel and exchange of blows. The respondent Police registered the case against the petitioner and other accused alone, letting go the aggressors who are the adjacent land owners cause for fight. Though this has been elicited in the evidence from the witnesses, not considered by the trial Court. Hence, he prayed for Suspension of Sentence and bail.

6.The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that there are fifteen accused, of which, A3, A9, A11 and A15 died. After ful-fledged trial, the trial Court acquitted some of the accused and convicted the present petitioners. There was some dispute between the adjacent land owners over the boundary and enjoyment of the property, due to which, there was constant burglary, finally on the occurrence day, the petitioners assaulted the adjacent land owners, threatened them and also destroyed the standing crops. The trial Court considered the evidence



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and materials and by a well reasoned judgment, acquitted some of the accused and convicted the petitioners herein, against whom, the evidence is available. He further submitted that trial Court suspended the sentence against the petitioners till 13.11.2023.

7.Considering the submissions and on perusal of the materials, it is seen that the dispute is between the adjacent land owners and the trial Court acquitted the petitioners for offence under Sections 294(b), 341 of IPC and Section 3 of the Tamil Nadu Public Property (Damage and Loss) Act and 506(iii) of IPC, on the other hand, on the same set of evidence and materials, convicted the petitioners as stated above, which needs reconsideration.

8.Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioners is suspended till the disposal of the appeal and the petitioners are ordered to be enlarged on bail, on condition that they shall execute a bond for a sum of Rs.5,000/- (Rupees Five Thousand only) each with two sureties each for a like sum to the satisfaction of the trial Court.

M. NIRMAL KUMAR, J.



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9. Accordingly, this Criminal Miscellaneous Petition is ordered.

10.11.2023

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To

1. The I Additional District & Sessions Court,
Cuddalore.

2. The Inspector of Police,
Thiruppapuliyur Police Station,
Cuddalore District.

3. The Public Prosecutor,
High Court, Madras.

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