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Crl.M.P.No.72 of 2023
in Crl.A.No.474 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2023

CORAM :

**THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND**

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.M.P.No.72 of 2023
in Crl.A.No.474 of 2021

1.Pakkiri @ Pakkirisami

2.Pavadai

... Petitioners/Appellants 1 and 2

Vs.

The State of Tamil Nadu
Rep.by:
The Inspector of Police
Thirunavalur Police Station
Kallakuruchi District.
(Crime No.52/2011)

... Respondent/Respondent

Criminal Miscellaneous Petition filed under Section 389 of Cr.P.C., to suspend the sentence imposed by the judgment dated 13.09.2021 made in Sessions Case No.142 of 2013, passed by the learned Additional Sessions and District Judge (Fast Track Court), Villupuram and enlarge the petitioners on bail pending disposal of the Crl.A.No.474 of 2021.



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For Petitioners : Mr.B.Mohan

For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

(Made by N. ANAND VENKATESH, J.)

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioners by judgment and order dated 13.09.2021 passed in S.C. No.142 of 2013, on the file of the Additional District and Sessions Court (Fast Track Court), Villupuram and to enlarge the petitioners on bail pending disposal of the appeal.

2.The petitioners, who were the accused in S.C.No.142 of 2013, before the Additional District and Sessions Court (Fast Track Court), Villupuram, were convicted and sentenced as follows:

<i>Accused</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Pakkiri @ Pakkirisami (A1)	Section 302 IPC	Life imprisonment and fine of 1,000/-, in default to undergo one year rigorous imprisonment.
Pavadai (A2)	Section 302 r/w 34 IPC	Life imprisonment and a fine of Rs.1,000/-, in default to undergo one year rigorous imprisonment.



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3. Heard Mr.B.Mohan, learned counsel for the petitioners and Mr.R.Muniyapparaj, learned Additional Public Prosecutor for the respondent.

4. It is the case of the prosecution that Kaliasammal (PW5) is the widow daughter-in-law of one Ramalingam, whose wife Marimuthu died on 20.02.2011. In connection with the death ceremonies of Marimuthu, Kaliasammal (PW5), who was living in her natal home, came to the house of Ramalingam. Since she had got estranged from the family of Ramalingam, the petitioners, who are the relatives of Ramalingam, did not want to permit her to join the ceremonies. However, a group of relatives headed by one Kasi came in support of Kaliasammal (PW5), aggrieved by which, it is alleged that the petitioners had attacked Kasi and one Jothilingam, resulting in the death of Kasi and injuries to Jothilingam.

5.The learned counsel for the petitioners made an endorsement and withdrew this petition insofar as the 1st petitioner/A1 is concerned. Hence, this petition is dismissed insofar as A-1 is concerned. The learned counsel further submitted that the 2nd petitioner/A2 is similarly placed as that of A3 and A4 and they have already been enlarged on bail by this Court while passing orders in Crl.MP.No.2605 of 2022, dated 24.03.2022. Hence, the learned counsel sought



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for the suspension of sentence of A-2 on the ground of parity and that the case of the 2nd petitioner/A2 is in a better footing than A3 and A4.

6.The earlier petition filed by the 2nd petitioner/A2 was dismissed by this Court since it was found that A2 had joined the attack along with A-1, resulting in the demise of Kasi. On carefully going through the materials, we find that the 2nd petitioner/A2 is also similarly placed like that of A3 and A4. That apart, the 2nd petitioner/A2 has already suffered incarceration for nearly one year and three months and there are no bad antecedents against A2 and A2 has already deposited the fine amount.

7.In view of the above, this criminal miscellaneous petition stands allowed insofar as the 2nd petitioner/A2, is concerned and we are inclined to suspend the sentence imposed by the Court below in S.C. No.142 of 2013 dated 13.09.2021 subject to the following conditions:-

(i) The 2nd petitioner/A2 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 Additional District and Sessions Court, (Fast Track Court), Villupuram;



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(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 mobile number, Aadhar card or Bank pass Book to ensure their identity; and

(iii) The 2nd petitioner/A2 shall appear before the trial Court 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 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.

(P.N.P.,J.) (N.A.V.,J.)
04.01.2023

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

To

1. Additional Sessions and District Judge
(Fast Track Court), Villupuram.
2. The Superintendent of Prison,
Central Prison, Cuddalore.
3. The Inspector of Police
Thirunavalur Police Station
Kallakuruchi District.
4. The Public Prosecutor
High Court of Madras.



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N. ANAND VENKATESH,J.

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