



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Ninth day of February Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.1263 of 2023
in
CRL A(MD) No.77 of 2023

HAMEED

... Appellant / Accused No.1

Vs

STATE THROUGH
THE INSPECTOR OF POLICE
AATHOOR POLICE STATION,
THOOTHUKUDI DISTRICT
(CRIME NO.205 OF 2012)

... Respondent / Complainant

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed against appellant in SC.No.59 of 2015 on the file of the Assistant Sessions Court, Thiruchendur dated 22.12.2022 and release the petitioner on bail till the disposal of the appeal

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.ALAGUMANI.R, Advocate for the petitioner and of Mr.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondents the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence dated 22.12.2022 passed in S.C.No.59 of 2015 by the Assistant Sessions Court, Thiruchendur, and release the Petitioner on bail till the disposal of the appeal.

2.The case of the prosecution in brief:-

On 26.10.2012 at about 9.00 p.m., the defacto complainant and other witnesses namely Rahamathullah and Kaleel Rahman questioned the accused as to why he did not went for job in hotel after receiving the money. Over the above said enquiry, trouble arose and the accused by abusing Rahamathullah in a filthy language, with intention to kill him caused assault with brandy bottle. The defacto complainant namely Rahamathuallah sustained grievous injuries on the head, left hip region, extra. When that was sought to be intervened



by Kaleel Rahman, he was also assaulted, causing injury in the neck region. On the basis of the above said occurrence, a case was registered for the offence under Section 294(b), 307 and 506(ii) of IPC.

3. Before the trial Court, on the side of the prosecution, 11 witnesses were examined and 13 documents were marked. On the side of the accused, 1 witness was examined and cross examination was done on P.W.10 and P.W.11.

4. At conclusion of the trial, the trial Court has found that the accused has found guilty under Section 307 and 506(ii) of IPC. Accordingly, the accused was convicted and sentenced to undergo 10 years of Rigorous Imprisonment with fine of Rs.5,000/- and in default to undergo Rigorous Imprisonment of further period of six year for the offence under section 307 of IPC and for the offence under Section 506(ii) of IPC, he was sentenced to undergo 5 years of Rigorous Imprisonment with fine of Rs.2,000/-, in default to undergo three months Rigorous Imprisonment.

5. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the instant Miscellaneous Petition seeking suspension of sentence.

6. The learned Counsel for the Petitioner would submit that P.W.2 came to the place of occurrence after thirty minutes of the occurrence and injuries suffered by the witnesses were not corroborated in the medical evidence. Since the Medical Officer who examined the injured person did not say about the measurements of the injury suffered by them.

7. Per contra, the learned Public Prosecutor would submit that over the simple issue, indiscriminate assault was made by the accused.

8. In reply for the above said learned Public Prosecutor's argument, the learned counsel for the petitioner would rely upon his evidence before the trial Court, wherein he stated that on the date of occurrence itself, only P.W.1 and P.W.2 assaulted the petitioner and caused injury. He went to Aathur Police Station and gave a complaint but no case was registered for the above said occurrence. But the actual fact that a case was registered against them.

9. As mentioned by the learned Public Prosecutor, over a simple issue, trouble has arisen between the injured person and the petitioner herein. With regard to the nature of injury that was suffered by the injured person, P.W.8 Medial Officer has stated that on examination he has found a cut injury measured in 30*20*20 c.m., on the left neck region and the inner portion of parts were visible, respiratory tract was found cut, thyroid gland also found cut apart from that cut injuries were found on the face region. He was put on ventilator because of the cut injury. He was admitted in the



hospital and timely treatment saved his life. ; ly
Rahamathullah was also found with cut injuries on head, stomach, hip
region apart from simple injuries. So the evidence of the Doctor
clearly shows that murderous attack has been made by this petitioner
indiscriminately causing severe injuries.

WEB COPY

10. The nature of injuries suffered by the injured are
sufficient for rejecting the benefit of suspension. So, this
Criminal Miscellaneous petition deserves dismissed.

11. Accordingly, this Criminal Miscellaneous Petition is
dismissed.

sd/-
09/02/2023

/ TRUE COPY /

/03/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

INDU

TO

1.The Assistant Sessions Judge,
Thiruchendur.

2.Do-through the Chief Judicial Magistrate,
Thoothukudi.

3.The Superintendent,
Central Prison,
Palayamkottai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CRL MP(MD) No.1263 of 2023
IN
CRL A(MD) No.77 of 2023
Date :09/02/2023

ED/BUC/SAR III(24.02.2023) 3P 5C