



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

Wednesday, the Nineteenth day of April Two Thousand and Twenty
Three

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.2924 of 2023
IN
CRL A(MD) No.710 of 2022

MATHIYALAKAN

... PETITIONER/APPELLANT

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
SEITHUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CRIME NO.248 OF 2012.

... RESPONDENT/RESPONDENT

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 by the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in S.C.No.156 of 2013 on 28.10.2022 and release the petitioner on bail pending disposal of the criminal appeal.

PRAYER IN CRL A(MD) No.710 of 2022:-

To call for the records and to set aside the conviction and sentence imposed by the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in S.C.No.156 of 2013 on 28.10.2022 and allow this Criminal 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.JOTHI BASU.M, Advocate for the petitioner and of MR.SS.MADHAVAN, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

RESERVED ON	10.04.2023
PRONOUNCED ON	19.04.2023



This Criminal Miscellaneous Petition has been filed to quash the sentence imposed on the petitioner by the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District @ Srivilliputhur, in S.C.No.156 of 2013, dated 28.10.2022, till the disposal of this Criminal Appeal.

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2. The case of the prosecution is that there existed previous enmity between the families of the petitioner/first accused and the defacto complainant with regard to passing of rain water, that on 21.10.2012 at about 06.00 p.m., the defacto complainant tried to divert the passing of rain water near their house, that when the petitioner came to that place, rain water got splashed on his body, that the petitioner got angry and went to his house and informed the same to his wife and at her instigation, he came with a aruval and attacked the defacto complainant and caused severe injuries on the left hand wrist region of the Mariammal and her left hand was amputated, that the injured were taken to the hospital and that on the basis of the complaint lodged, FIR came to be registered in Crime No.248 of 2012 for the offences under Sections 324 and 307 IPC.

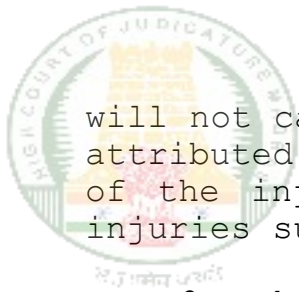
3. The respondent police, after completing the investigation, has filed the final report before the jurisdictional Court and subsequently, the case was committed to the Court of Sessions and the same was taken on file in S.C.No.156 of 2013 and the same was pending on the file of the Fast Track Mahila Court, Virudhunagar District @ Srivilliputhur.

4. During trial, the prosecution has examined 15 witnesses as P.W.1 to P.W.15, exhibited 14 documents as Ex.P.1 to Ex.P.14 and marked 1 material object as M.O.1. The defence have adduced neither oral nor documentary evidence.

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the impugned judgment dated 28.10.2022 convicting the petitioner for the offence under Section 307 (4 counts) IPC and sentenced him to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo 6 months Rigorous Imprisonment. Aggrieved by the said judgment of conviction and sentence, the first accused has come forward with the present Criminal Appeal.

6. No doubt, the petitioner's earlier application for suspension of sentence was ordered to be dismissed vide order dated 03.01.2023.

7. The learned counsel appearing for the petitioner would submit that the petitioner is having good case on merits, that the petitioner has no intention to cause death upon the injured <https://www.mca.gov.in> that the injuries said to be inflicted by the petitioner



will not cause death in the ordinary course of time, that the injuries attributed by the prosecution is flimsy and that the scan and X-ray of the injured persons have not been produced to prove that the injuries sustained by the witnesses are grievous in nature.

8. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner had attacked three persons and caused injuries to them and that the petitioner had attacked P.W.2 on her head and since she raised alarm, her mother came and she was also assaulted and on hearing the above said noise, Mariammal came to that place and she was also assaulted by the petitioner on her left wrist region and as a result of which, her left hand was amputated.

9. The learned counsel appearing for the petitioner would further submit that though there was no motive or issues between the parties, the dispute had arisen due to the splashing of the rain water.

10. As rightly pointed out by the learned Government Advocate (Criminal Side), left hand of one of the injured witness got amputated.

11. Considering the above facts and circumstances and also the nature and gravity of the offence allegedly proved against the petitioner and the way in which the injured persons were attacked by the petitioner and the period of incarceration, this Court is not inclined to suspend the sentence imposed on the petitioner. Accordingly, this Criminal Miscellaneous Petition is dismissed.

sd/-
19/04/2023

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/04/2023

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

CSM

TO

1 THE JUDGE, FAST TRACK MAHILA COURT,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
SEITHUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.

<https://www.mhcmadurai.org>



CRL MP(MD)



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4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

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ORDER
IN
CRL MP (MD) No.2924 of 2023
IN
CRL A (MD) No.710 of 2022
Date :19/04/2023

NA/CG/SAR-4/25.04.2023/4P/5C