



CRL MP(MD) No.3731 of 2023

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

Wednesday, the Ninth day of August Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH
and
The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL MP(MD) No.3731 of 2023
IN
CRL A(MD)No. 168 of 2023

SELVI

... PETITIONER/5th APPELLANT

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
KULITHALAI POLICE STATION,
KARUR DISTRICT.
CRIME NO. 12 OF 2020

... RESPONDENT/RESPONDENT

Criminal Miscellaneous 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 Learned Principal Sessions Court / District Court, Karur in S.C NO. 2 of 2021 dated 20.01.2023 and enlarge the petitioner / Accused No.5 on bail till the disposal of the Criminal Appeal.

PRAYER IN CRL A(MD)No. 168 of 2023:

Pleased to admit this appeal on file and call for the records from the Lower court and set aside the Judgment passed by the Learned Principal Sessions Court/District Court, Karur in S.C.No. 2 of 2021 dated 20.01.2023, by allowing this appeal.



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Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.K.P.S.PALANIVEL RAJAN, Senior Counsel for M/S.VINAYAK S, Advocate for the petitioner and of MR.RMS.SETHURAMAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

[Order of the Court was made by M.NIRMAL KUMAR, J.]

This petition has been filed to suspend the sentence imposed against the petitioner / 5th appellant / 5th accused in S.C.No.2 of 2021, dated 20.01.2023 on the file of the Principal Sessions Court / District Court, Karur and enlarge her on bail pending disposal of the Criminal Appeal.

2.In the said judgment, the trial Court convicted the petitioner / 5th appellant for the offences under Sections 147, 294(b) and 302 r/w 149 IPC, sentenced her for the offence under Section 147 IPC to undergo three months simple imprisonment and to pay a fine of Rs.500/- (Rupees Five Hundred Only) in default to undergo 15 days simple imprisonment; for the offence under Section 294(b) IPC to undergo one month simple imprisonment and for the offence under Section 302 r/w 149 IPC to undergo life imprisonment and to pay a fine of Rs.2,000/- (Rupees Two Thousand Only) in default to undergo 6 months simple imprisonment.

3.The case of the prosecution is that there was a property dispute between the family of the deceased and the accused and due to which the deceased regularly used to pick up quarrel. While so, on 11.01.2020 during morning hours while P.W.6



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was standing near her house, the petitioner / A5 had abused her. When the deceased had questioned the same, A1 to A5 had come to the house of the deceased and picked up quarrel. The petitioner / A5 said to have abused the deceased, A1 attacked the deceased by using wooden log on the back side of the head, A2 hit him on the forehead with a stone and A3 and A4 had also attacked the deceased on the head and lower jaw. Thereafter, when P.W.1 shouted for help, P.W.2, P.W.5 and P.W.9 had taken the deceased to the Government Hospital at Kuzhithurai, where P.W.10 Casualty Medical Doctor had given first aid to the deceased. Thereafter, he was referred to Trichy Government Hospital. P.W.11 is the Doctor, who admitted the deceased as in-patient in the Government Hospital, Trichy. P.W.12 is the Doctor, who conducted postmortem. On the complaint of P.W.1 the case registered and after examining the witnesses, collecting materials, charge sheet filed.

4.During trial, on the side of the prosecution, P.W.1 to P.W.17 were examined and Ex.P.1 to P.24 were marked, besides M.O.1 to M.O.3 were marked. On the side of the defence, D.W.1 examined and Ex.D.1 marked. The trial Court, on perusal of the evidence and materials, had convicted the petitioner as stated above.

5.The contention of the learned Senior Counsel appearing for the petitioner is that in this case the petitioner has been wrongly convicted by the trial Court without proper appreciation of the materials. He further submitted that the petitioner



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sustained injuries due to the assault committed by P.W.1 and others, for which she examined the Government Doctor, who treated her, as D.W.1 and marked Accident Register copy as Ex.D.1. However, the trial Court failed to consider the same.

6.He further submitted that the alleged eyewitnesses P.W.1, P.W.2, P.W.5 and P.W.6 not uttered anything against the petitioner, except usage of abusive words and the case initially registered for the offences under Sections 147, 148, 294(b), 324 r/w 307 IPC. Later, it was altered into the offences under Sections 147, 148, 294(b), 302 r/w 149 IPC on 14.01.2020 ie., after the death of the deceased. He further submitted that mere presence of the petitioner with other family members that too in front of her house cannot be termed as an unlawful assembly, unless there was a common object, actuated by the petitioner.

7.The learned Additional Public Prosecutor for the respondent fairly submitted that the petitioner except using abusive words had not gone near the deceased and attacked him. Further, both the petitioner and the deceased are close relatives and on the date of occurrence during morning hours there was a wordy quarrel, thereafter, during the evening hours, the accused and others came to the house of the deceased, picked up quarrel, triggered the fight. As far as this petitioner is concerned, except for her mere presence, there is nothing more against her.



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8. Considering the submissions made on either side and on perusal of the materials placed before this Court, we are inclined to entertain this petition and to suspend the sentence imposed against the petitioner / A5. Accordingly, this petition is ordered and the imprisonment ordered by the trial Court through the impugned judgment is suspended subject to the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.10,000/-, with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Kulithalai; and

(ii) The petitioner shall appear before the learned Judicial Magistrate No.II, Kulithalai, once in a month on the first working day of every English Calender month at 10.30 a.m. until further orders and if she is not able to appear before the said Court on any day, she shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the said Court on any other day in lieu of the date of her absence, as directed by the said Court.

sd/-
09/08/2023

/ TRUE COPY /

11/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

- 1 THE PRINCIPAL SESSIONS JUDGE
/DISTRICT JUDGE, KARUR.
- 2 THE JUDICIAL MAGISTRATE NO.II, KULITHALAI.
- 3 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE, KARUR DISTRICT.
- 4 THE INSPECTOR OF POLICE
KULITHALAI POLICE STATION, KARUR DISTRICT.
- 5 THE OFFICER INCHARGE
SPECIAL PRISON FOR WOMEN, TRICHY.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.VINAYAK, Advocate (SR-12029[I] dated 09/08/2023)

ORDER

IN

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IN

CRL A(MD)No. 168 of 2023

Date :09/08/2023

PKP/ /SAR- /11.08.2023/ 6P/8 C

Madurai Bench of Madras High Court is issuing certified
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