



CRL MP(MD) No.9550 of 2023

WEB COPY

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

Thursday, the Thirty First 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

CrI.M.P.(MD).No.9550 of 2023  
in  
CrI.A.(MD).No.502 of 2023

MURUGAN

... PETITIONER/ APPELLANTS

Vs

THE STATE REP.BY,  
THE INSPECTOR OF POLICE  
PERIYAKULAM POLICE STATION,  
THENI DISTRICT.  
CRIME NO.194/2021.

... 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 passed by the Learned Additional Sessions Judge, Theni in SC No.132/2021 dated 28.04.2023 and enlarge petitioners on bail pending disposal of criminal appeal and pass such further or other orders as this Honble Court.

PRAYER IN CrI.A.(MD).No.502 of 2023:

To allow this appeal and call for records and set aside the judgment, conviction and sentence passed by the learned Additional Sessions Judge, Theni at Periyakulam dated 28.04.2023 in S.C.No.132 of 2021.



CRL MP(MD) No.9550 of 2023

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.IYYAPPARAJ.C, Advocate for the petitioner and of MR.RMS.SETHURAMAN, Additional Public Prosecutor for 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 / sole accused in S.C.No.132 of 2021 dated 28.04.2023 on the file of the learned Additional District and Sessions Judge, Theni at Periyakulam and enlarge him on bail pending disposal of the Criminal Appeal.

2. By the said judgment, the petitioner/sole accused was convicted and sentenced to undergo life imprisonment and to pay a fine of Rs.5000/-, in default, to undergo one year rigorous imprisonment, for the offence punishable under Section 302 IPC.

3.1. The case of the prosecution is that the petitioner and the deceased are adjacent land owners to the agricultural lands. There was a dispute between them over the enjoyment of the Government poromboke lands, due to which, on 17.05.2021 at about 11.00 AM, when the deceased was doing agricultural work in his field, the petitioner came there and using M.O.1 sickle, he had inflicted serious injury on the



CRL MP(MD) No.9550 of 2023

WEB COPY

back side of the deceased's left leg, which got amputated at the knee level and due to profound bleeding, the deceased died on the spot.

3.2. P.W.1 to P.W.7 are the eyewitnesses to the occurrence. P.W.1, P.W.2 and P.W.3 are the wife, daughter and granddaughter of the deceased respectively and others are relatives who were present at the time of occurrence and who had witnessed the assault of the accused.

3.3. P.W.12, the Sub Inspector of Police, received the complaint lodged by P.W.1 and registered the case against the accused. P.W.14, the Inspector of Police took up investigation, visited the scene of occurrence and prepared observation mahazar. The inquest was conducted and the body was sent to postmortem. Thereafter, on information, the petitioner was arrested on 17.05.2021 in the presence of P.W.8. On his confession, M.O.1 sickle was recovered. After examination of the witnesses and collection of evidences and materials, charge sheet was filed.

4. Before the Trial Court, on the side of prosecution, P.W.1 to P.W.15 were examined, Ex.P1 to P16 were marked and M.O.1 to M.O.6 were produced.



**CRL MP(MD) No.9550 of 2023**

WEB COPY

5. The primary contention of the learned counsel for the petitioner is that the admitted case of the prosecution is that there was land dispute between the petitioner and the deceased, who were adjacent land owners. For this dispute, earlier there were peace talks between them. After those peace talks, the deceased continued to encroach upon the land enjoyed by the petitioner and further aggravated the dispute. On 17.05.2021 at about 11.00 AM, the deceased is said to have been assaulted by the accused using M.O.1 sickle. M.O.1 sickle is a usual one which is used for agricultural activities, which cannot be projected that a weapon has been brought for the purpose of doing away the deceased. It is further submitted that from the evidence of the witnesses, it is seen that prior to the attack, there was a wordy quarrel between the petitioner and the deceased, which later turned into attack. Further, the injury of the deceased is on the left leg, on the knee and below it, which are non-vital parts and hence, taking the case of the prosecution in total, the offence under Section 302 IPC is not made out and utmost, it would come under Section 326 IPC.

6. The learned counsel further submitted that P.W.1 admits that immediately after the attack, she attempted to bandage the wound to stop the flow of blood.

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) No.9550 of 2023

P.W.11, postmortem Doctor confirmed the injury on the left knee and below and the death is due to cutting of veins and profound bleeding and hence, prayed to allow this petition.

7. Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that in this case, P.W.1 to P.W.7 are the eyewitnesses, of which, P.W.1 to 6 are relatives and P.W.7 is the independent witness, who had witnessed the petitioner attacking the deceased with sickle. The petitioner had an intention to do away with the deceased, as could be seen from the nature of injuries. The injuries are such deep, that in fact gone up to the veins, cut the veins and also reached up to the bones, which was confirmed by P.W.11. The intention of the deceased is to do away with the deceased. Therefore, after attacking the deceased, the accused ran away from the scene of occurrence and later, he was arrested in the presence of P.W.8 and M.O.1 sickle was recovered on the confession of the accused. In this case, all the witnesses confirmed the case of the prosecution. Thus, the Trial Court considered all these facts and therefore, rightly convicted the petitioner under Section 302 IPC. Hence, he opposed for grant of suspension of sentence.



CRL MP(MD) No.9550 of 2023

8. Considering the submissions made on either side and on perusal of the materials placed before this Court, it is seen that in this case, there is an injury said to have been inflicted by the petitioner on the left knee and below it, as could be seen from the evidence of P.W.11 postmortem Doctor and Ex.P6 postmortem report and Ex.P7 final opinion. In view of the above, this Court finds that a prima facie case is made out for grant of suspension of sentence and it is found that the conviction under Section 302 IPC may not be sustainable and it may require interference.

9. In view of the same, we are inclined to entertain this petition and to suspend the sentence imposed against the petitioner / sole accused. 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 Additional District and Sessions Court, Theni at Periyakulam; and

(ii)The petitioner shall appear before the Additional District and Sessions Court, Theni at Periyakulam, once in a month on the first



CRL MP(MD) No.9550 of 2023

WEB COPY

working day of every English Calender month at 10.30 a.m. until further orders and if he is not able to appear before the said Court on any day, he 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 his absence, as directed by the said Court.

sd/-  
31/08/2023

/ TRUE COPY /

04/09/2023  
Sub-Assistant Registrar (C.S. )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

Im

TO

- 1.THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,  
THENI AT PERIYAKULAM
- 2 THE SUPERINTENDENT,  
CENTRAL PRISON, MADURAI.
- 3.THE INSPECTOR OF POLICE  
PERIYAKULAM POLICE STATION,  
THENI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.



**CRL MP(MD) No.9550 of 2023**

WEB COPY

+1 CC to M/s.C.IYYAPPARAJ, Advocate ( SR-13006[I] dated 31/08/2023 )

ORDER  
IN  
CrI.M.P.(MD).No.9550 of 2023  
in  
CrI.A.(MD).No.502 of 2023  
Date :31/08/2023

RK (04/09/2023) 8P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023