



CRL MP(MD) No.11433 of 2023

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

Friday, the Twenty Ninth day of September Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.11433 of 2023

IN

CRL A(MD) No. 706 OF 2023

1 PANDIYARAJAN

2 SEENIVASAN

3 JOHN PETER

... APPELLANTS/ ACCUSED NOS. 1 TO 3

Vs

**THE STATE REP BY,
THE INSPECTOR OF POLICE
PUDUKKOTTAI TOWN POLICE STATION,
PUDUKKOTTAI DISTRICT.
CRIME NO.187 OF 2018.**

... RESPONDENT/COMPLAINANT

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 against the appellants in SC.No.62 of 2019 dt.17.7.2023 on the file of the Honble Principal District and Sessions Judge,Pudukkottai and release Appellants on bail till the disposal of the appeal.

PRAYER IN CRL A(MD)No. 706 of 2023:

To call for the entire records connected to the judgment in S.C.No. 62 of 2019 on the file of the Hon'ble Principal District and Sessions Judge, Pudukottai dated 17.07.2023 and set aside the conviction and sentence imposed against the appellants.

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



CRL MP(MD) No.11433 of 2023

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.RAMESHKUMAR S, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate (Criminal Side) on behalf of the Respondent, the court made the following order:-

This petition is filed to suspend the sentence imposed on the petitioners by the learned Principal District and Sessions Judge, Pudukottai, in S.C.No.62 of 2019 dated 17.07.2023 and enlarge the petitioners on bail pending disposal of the main Criminal Appeal.

2. The case of the prosecution is that one Manikandan/P.W.6 is residing in TS No.5644, south 4th Street, Pudukkottai and running banking business, in the name and style of Senthil Aandavar bankers and his brother namely, P.W.2/ Ayyappan is the owner of Ayyappa Transport, and the petitioners/accused Nos.1 to 3 were friends and on 13.10.2018, at about 08.15 a.m., third accused travelled in P.W.2's bus from Pudukkottai to Vathanakkorrai Via Andakulam and at that time, the conductor of the bus insisted him not to stand in the footsteps. Due to which, all the accused, abused the owner of the bus and caused damages to the glass door of the bank worth about Rs.1,020/- by pelting stones and caused grievous injury and criminally intimidated him. Hence, P.W.1 gave the complaint.

3. On the basis of the complaint lodged by the complainant, a case came to be registered in Crime No.187 of 2018 for the offences under Sections 294(b), 326, 506(ii)

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CRL MP(MD) No.11433 of 2023

of IPC and under Section 3(i) of Tamil Nadu Property (Prevention of Damages and Laws) Act. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 294(b), 326, 506(ii) of IPC and under Section 3(i) of Tamil Nadu Property (Prevention of Damages and Laws) Act.

4. During trial, the prosecution has examined 10 witnesses as P.W.1 to P.W.10 and exhibited 9 documents as Ex.P.1 to Ex.P.9, and 2 material objects were marked as M.O.1 and M.O.2, whereas, the accused has neither adduced oral nor documentary evidence.

5. The learned Principal District and Sessions Judge, Pudukkottai, upon considering the evidences adduced and on hearing the arguments on both the sides, convicted the petitioners/accused Nos.1 to 3 for the offences under Sections 294(b), 326, 506(ii) of IPC and under Section 3(i) of Tamil Nadu Property (Prevention of Damages and Laws) Act of IPC and sentenced them to undergo one year rigorous imprisonment and to pay a fine of Rs.1,500/- each, in default, to undergo three months simple imprisonment for the offence under Section 3(i) of the Tamil Nadu property (Prevention of Damages and Laws) Act, and sentenced them to undergo one year of rigorous imprisonment and to pay a fine of Rs.1,000/- each, in default, to undergo three months of simple imprisonment for the offence under Section 326 of

IPC. Aggrieved over the same, they filed the Criminal Appeal, along with this present

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CRL MP(MD) No.11433 of 2023

Criminal Miscellaneous Petition before this Court.

6. The learned counsel for the petitioners would submit that the prosecution failed to prove the motive and there is a lot of contradiction between the evidences and medical evidence is not corroborated with P.W.1. He would further submitted that the petitioners are surrendered before the learned Principal District Court, Pudukkottai and they were confined in Central Prison, Trichy. Hence, he seeks suspension of sentence.

7. The learned Government Advocate (Crl.side) appearing for the respondent would contend that the Trial Court has rightly convicted the petitioners on the basis of the evidence and the petitioners have no prima facie case in this appeal.

8. This Court has carefully considered the submissions on either side and also perused the materials available on record.

9. According to the learned counsel for the petitioners, the prosecution has failed to establish the case against the petitioners and there is a lot of material discrepancies between the witnesses and there is a contradiction between the witnesses and the medical evidence and also certain contradictions in material particulars brought to the knowledge of this Court and hence, this Court prima facie feels that there are arguable points involved in this criminal appeal and further the criminal revision is not likely to be taken up for final hearing in the near future and as



CRL MP(MD) No.11433 of 2023

such, this Court is of the considered view that the petitioners herein are in custody, in Central Prison, Trichy. Hence, the petitioners are entitled to the relief of grant of suspension of sentence.

10. Accordingly, the relief of suspension of sentence is granted to the petitioners on the following conditions:-

(i) The petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Principal District and Sessions Judge, Pudukkottai;

(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 Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioners shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
29/09/2023

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29/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



CRL MP(MD) No.11433 of 2023

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SBN
TO

- 1 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, PUDUKKOTTAI.
 - 2 THE INSPECTOR OF POLICE
PUDUKKOTTAI TOWN POLICE STATION, PUDUKKOTTAI DISTRICT.
 - 3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.R.ALAGUMANI, Advocate (SR-14492[I] dated 29/09/2023)

ORDER
IN
CRL MP(MD) No.11433 of 2023
IN
CRL A(MD) No. 706 OF 2023
Date :29/09/2023

PKP/SAR- /29.09.2023/ 5P/ 6C
Madurai Bench of Madras High Court is issuing certified
copies in this format from 17/07/2023