



CRL MP(MD) No.12094 of 2023

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

Wednesday, the Eleventh day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.12094 of 2023

IN

CRL A(MD) No.752 of 2023

1 JOHNSON

2 PAUL NADAR

... PETITIONERS/ APPELLANTS/ ACCUSED No.1 & 2

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
PATHAMADAI POLICE STATION,
TIRUNELVELI DISTRICT.

CRIME NO.15 OF 2019. ... RESPONDENT/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 execution of sentence by granting bail in SC.No.378 of 2021 dt.24.7.2023 and 31.7.2023 on the file of the Learned Sessions Judge,Mahilir Neethimandram (Mahila Court),Tirunelveli District pending disposal of the above Criminal Appeal.

PRAYER in CRL A(MD)No.752 of 2023:

To admit this appeal on file, to call for the records from the Lower Court, namely, Learned Sessions Judge Mahilir Neethimandram(Mahila Court), Tirunelveli District in S.C.No.378 of 2021 and to set aside the judgment, dated 24.07.2023 & 31.07.2023 by acquitting the appellants.



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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.PRABHU, Advocate for the petitioner and of Mr.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent while admitting the Criminal Appeal., the Court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Sessions Judge Mahalir Neethimandram (Mahila Court), Tirunelveli District, dated 24.07.2023 and 31.07.2023 in S.C.No.378 of 2021 and enlarge the petitioners on bail till the disposal of this Criminal Appeal.

2. The case of the prosecution is that there was a dispute between the first petitioner and the wife of the P.W.1's brother with regard to the illicit intimacy. On 25.01.2019, at about 08.00 a.m., when the P.W.1 and his mother/P.W.2 were passing water in their field, the petitioners went to the spot and questioned about the leakage of water from P.W.1's agricultural field to their field. Hence, a wordy quarrel arose between them, the petitioners abused them in filthy language and also attacked the P.W.1 and P.W.2 and caused injuries to them. Thereafter, a case was registered against the petitioner by the respondent police. After completion of investigation formalities, final report was filed before the concerned Court for the offences under Sections 294(b), 324, 326, 307 and 506(ii) and Section 4 of Tamil Nadu Prohibition of Women Harassment Act.



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3. Before the trial Court, on the side of the prosecution, 14 witnesses have been examined as P.W.1 to P.W.14 and 16 documents were marked as Ex.P1 to Ex.P16. Three materials objects were marked as M.O.1 to M.O.3 and two documents were exhibited as Court documents Ex.C1 and Ex.C2. On the side of the accused no witnesses was examined and no documents was marked.

4. The learned Sessions Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 24.07.2023 and 31.07.2023 by acquitting all the accused under Sections 324, 307 and 506(ii) of IPC and convicting them as follows :

Particulars for A1

S.No.	Offence	Sentence	Fine	In default sentence
1.	Section 294(b) of IPC	1 month rigorous imprisonment	Rs.500/-	1 week simple imprisonment
2.	Section 326 of IPC (2 Counts)	3 years rigorous Imprisonment (For Each Count)	Rs.10,000/- (For each count)	4 months Simple Imprisonment (For Each count)
3.	Section 4 of Tamil Nadu Prohibition of Women Harassment Act	6 months rigorous imprisonment	Rs.10,000/-	4 months simple imprisonment



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Particulars for A2

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S.No.	Offence	Sentence	Fine	In default sentence
1.	Section 294(b) of IPC	1 month rigorous imprisonment	Rs.500/-	1 week simple imprisonment
2.	Sections 326 r/w 109 of IPC	3 years rigorous Imprisonment	Rs.10,000/-	4 months Simple Imprisonment
3.	Section 4 of Tamil Nadu Prohibition of Women Harassment Act	6 months rigorous imprisonment	Rs.10,000/-	4 months simple imprisonment

Challenging the above said conviction and sentence, the petitioners have preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5. The learned counsel for the petitioners would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He further submitted that the learned Sessions Judge, Mahalir Neethimandram (Mahila Court), Tirunelveli, in CrI.M.P.No.10294 of 2023 has suspended the sentence till 31.08.2023.



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6. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioners and hence, he strongly opposed to grant suspension of sentence.

7. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

8. The learned counsel for the petitioners pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioners herein are entitled to the relief of grant of suspension of sentence.

9. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are directed to be enlarged on bail, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each, with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Cheranmahadevi, and on further condition that the



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petitioners shall appear before the said Court at 10.30 a.m. on the first working day

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of every English Calendar month, pending disposal of the appeal

sd/-

11/10/2023

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/10/2023

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

TTA

TO

- 1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM(MAHILA COURT),
TIRUNELVELI DISTRICT.
- 2 THE JUDICIAL MAGISTRATE,
CHERANMAHADEVI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 4 THE INSPECTOR OF POLICE
PATHAMADAI POLICE STATION,
TIRUNELVELI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

Copy To:-

THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.(CALL FOR THE RECORDS)



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+1 CC to M/s.K.PRABHU, Advocate (SR-15020[I] dated 11/10/2023)

ORDER
IN
CRL MP(MD) No.12094 of 2023
IN
CRL A(MD) No.752 of 2023
Date :11/10/2023

SS/VRS/13/10/2023/7P/8C

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