

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2024

CORAM:

**THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

Crl.M.P.No.1719 of 2024
in Crl.A.No.142 of 2024

1.Veeraiyan ... 1st Petitioner/A1
(Dismissed as withdrawn as per order of this Court dated 21.06.2024)

2.Rajesh @ Rajeshkumar ... 2nd Petitioner/A3

Vs.

The Inspector of Police,
Vedharanyam Police Station,
Nagapattinam District.
(Crime No.339/2010)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of the Criminal Procedure Code, seeking to suspend the execution of the sentence against the petitioners/accused by S.C.No.21 of 2015 by the learned Court of Session (Fast Track Mahila) Judge, Nagapattinam, dated 27.09.2022 and enlarge the petitioner on bail, pending disposal of this appeal.

For Petitioner : Mr.P.Muthamizhselvakumar

For Respondent : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

M.S.RAMESH, J.
AND
SUNDER MOHAN, J.

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentences imposed on the petitioners/A1 & A3 by the learned Sessions Judge, Fast Track Mahila Court, Nagapattinam on 27.09.2022 in S.C.No.21 of 2015 and enlarge them on bail, pending disposal of the Criminal Appeal.

2. Today, when the matter was heard, the learned counsel for the petitioners sought permission of this Court to withdraw the name of the first petitioner/A1 from this petition. Accordingly, this miscellaneous petition is dismissed as withdrawn insofar as the first petitioner/A1 is concerned.

3. The learned Sessions Judge, Fast Track Mahila Court,

Nagapattinam in S.C.No.21 of 2015, has convicted the second petitioner/A3 and sentenced him as follows:-

<i>Accused</i>	<i>Offence</i>	<i>Sentence imposed</i>
A3	Section 341 IPC	1 month rigorous imprisonment
	Section 302 r/w. 34 IPC	Life imprisonment along with a fine of Rs.10,000/- in default to undergo 6 months rigorous imprisonment
	Section 201 IPC	5 years rigorous imprisonment along with a fine of Rs.5,000/- in default to undergo 3 months rigorous imprisonment.

4. Challenging the above conviction and sentence, the second petitioner/A3, has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present miscellaneous petition.

5. Heard Mr.P.Muthamizhselvakumar, learned counsel appearing for the second petitioner and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor, appearing for the respondent/Police.

6. It is the case of the prosecution that there were frequent quarrel

between A1 and the family of one Packiri, who is one of the witnesses; that about three months prior to the occurrence, the deceased Vedhanayaki, D/o Packiri, scolded A1 and assaulted him by using broom; that A1 at that time, proclaimed that the death of the deceased would be by him anytime later; that on 21.09.2010, at about 8:00 PM, when the deceased returned from her place of work at Appar Computer Centre, North Street, Vedaranyam to her house in bicycle, A1 along with A3 and A4 waylaid the deceased and attacked her by using aruval and thereby committed murder of the deceased and took away the gold chain, one pair of ear stud and another pair of thongal and one pair of silver anklets etc., and took the body and put in a septic tank situated in the backside of AEO Colony and closed the same by using cement plate.

7. By an order dated 24.11.2023 in Crl.M.P.No.7590 of 2023 in Crl.A.No.614 of 2023, we have considered the case of A4 and granted suspension of sentence to him by making the following observations:-

..... *“6. It appears that the Trial Court convicted all the accused since A1 had a motive and there was recovery pursuant to A1's confession. However, we find that there is no evidence or material to hold that the petitioner is guilty*

of the offences charged against him. There is no discussion by the trial Court as to how A4 had joined A1 in the commission of offence in this crime. Merely because A4 happened to be the friend of A1, there cannot be inference that he is guilty of the offence. Therefore, this Court finds prima facie case in favour of the petitioner, and we are inclined to Suspend the Sentence imposed on the petitioner herein.”

8. The aforesaid observations will squarely apply to case of the second petitioner/A3 herein as well, as he stands on the same footing.

9. Accordingly, this Criminal Miscellaneous Petition stands **allowed** and the sentence imposed on the second petitioner/A3 is suspended on the following conditions:-

- (i) The second petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties each, each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Nagapattinam;
- (ii) The second petitioner and 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 and mobile numbers to ensure their identity;

(iii) The second petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m., until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

(M.S.R, J.) (S.M, J.)
21.06.2024

Index: Yes/No

Sni

Note: Issue Order Copy on 25.06.2024

To

1.The Sessions Judge,
Fast Track Mahila Court,
Nagapattinam.

2.The The Inspector of Police,
Vedharanyam Police Station,
Nagapattinam District.

3.The Superintendent,
Central Prison,
Cuddalore.

4.The Public Prosecutor,
High Court,
Madras.

Crl.M.P.No.1719 of 2024
in Crl.A.No.142 of 2024

M.S.RAMESH, J.
and
SUNDER MOHAN, J.

Sni

Crl.M.P.No.1719 of 2024
in Crl.A.No.142 of 2024

21.06.2024