



Crl.MP.No.2034/2024

in

Crl.A.No.339/2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

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in

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1. Ameer Basha

2. Madhanraj

3. Krishnan ...Petitioners/Appellants/Accused 1 – 3

VS

State Represented by

Inspector of Police,

V – 3, J.J. Nagar Police Station,

Chennai – 600 040.

...Respondent/Respondent/Complainant

Prayer:- Civil Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed in S.C.No.33 of 2019 dated 13.03.2020 on the file of the learned III Additional Sessions Judge



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at Poonamallee and enlarge the petitioners on bail pending disposal of the above Criminal Appeal.

For Petitioners : Mr.L.Mahendran

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

[Order of the Court was made by SUNDER MOHAN, J]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioners by judgment and order dated 13.03.2020 passed in S.C.No.33 of 2019 on the file of the learned III Additional Sessions Judge at Poonamallee and enlarge the petitioners on bail pending disposal of the above appeal.

2. The petitioners, who are arrayed as accused 1 to 3 in the above Sessions Case, were convicted and sentenced as follows:



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Accused No.	Offence under Section	Sentence imposed
A1 to A3	302 r/w 34 of IPC	Each of them to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo rigorous imprisonment for a period of six months.
	452 of IPC	Each of them to undergo rigorous imprisonment for five years and to pay a fine of Rs.3,000/-, in default to undergo rigorous imprisonment for a period of two months.
	506 (ii) of IPC	Each of them to pay a fine of Rs.3,000/-, in default to undergo rigorous imprisonment for a period of two months.
The sentences imposed are ordered to run concurrently.		

3. Challenging the above conviction and sentence, the petitioners have filed the above Criminal Appeal, and they seek suspension of sentence and bail in the present petition.

4. Heard Mr.L.Mahendran, the learned counsel for the petitioners/A1, A2 and A3 and Mr.A.Gokulakrishnan, the learned Additional Public Prosecutor appearing for the respondent/State.



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5. It is the case of the prosecution that the accused persons/petitioners/A1, A2 and A3 were known to the deceased and there was prior enmity between the accused and the deceased on account of a dispute between them during the New Year celebrations; that on 06.09.2018, the deceased reprimanded the accused and reminded them about that dispute which infuriated the accused; that on 07.09.2018 at about 1.30 a.m., the accused persons trespassed into the house of the deceased and dragged the deceased out of the house; that A2 and A3/the petitioners 2 and 3 caught hold of the deceased and A1 stabbed the deceased on the left chest, left rib and left neck with a knife.

6. The learned counsel for the petitioners/A1, A2 and A3, submitted that the petitioners are in custody from 26.08.2020; that the entries in the accident register, [Ex.P7] suggest that only one person was involved in the occurrence. The learned counsel for the petitioners further sought permission from this Court to withdraw the bail application in respect of A1.

7. The learned Additional Public Prosecutor, *per contra*, submitted



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that the case has been established by the prosecution beyond reasonable doubt; and that there is no infirmity in the judgment of the trial Court. Hence, he prayed for dismissal of the petition.

8. We have carefully considered the rival submissions on either side and perused the record.

9. Admittedly, the petitioners/A2 and A3, are in custody from 26.08.2020. The overt act alleged against these petitioners/A2 and A3, is that they caught hold of the deceased. However, we find from the entries in the accident register, [Ex.P7] that the deceased had told the doctor that he was attacked by one known person with a knife.

10. Considering the above and the fact that the petitioners/A2 and A3 are in custody from 26.08.2020, we are inclined to suspend the sentence insofar as the petitioners 2 and 3 are concerned.

11. The learned counsel for the petitioners made an endorsement



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withdrawing this petition in respect of the first petitioner/A1. **Accordingly, this petition is dismissed as withdrawn in respect of the first petitioner/A1.**

12. Insofar as the petitioners 2 and 3/A2 and A3, this criminal miscellaneous petition stands **allowed** and the sentences imposed on the petitioners 2 and 3/A2 and A3, are suspended on the following conditions:

- (i) Each of the petitioners 2 and 3/A2 and A3 shall execute a bond for a sum of Rs.25,000/-, with two independent sureties, each for a like sum, to the satisfaction of the learned III Additional Sessions Judge, Poonamallee;
- (ii) The petitioners 2 and 3/A2 and A3 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: and
- (iii) The petitioners 2 and 3/A2 and A3 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 they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317



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Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the trial Court.

[MSRJ] [SMJ]
28.06.2024

dk

Internet: Yes

Note : (i) Issue order copy by 02.07.2024
(ii) Upload the order forthwith.

To

- 1.The III Additional Sessions Judge,
Poonamallee
- 2.The Inspector of Police,
V – 3, J.J. Nagar Police Station,
Chennai – 600 040.
- 3.The Superintendent of Prisons,
Central Prison, Vellore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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