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Crl.MP.No.3798 of 2024 in Crl.A.No.543 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.08.2024

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.MP.No.3798 of 2024
in
Crl.A.No.543 of 2022

Mathaiyan

...Petitioner / Appellant

Versus

State rep. by Inspector of Police
Kaveripattinam Police Station,
Krishnagiri District
(Crime No. 404 of 2017)

...Respondent

Prayer :- Civil Miscellaneous Petition is filed under Section 389(1) of Cr.P.C., to suspend the sentence imposed by the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri, in S.C.No.121 of 2018 dated 10.03.2022 and enlarge the petitioner /appellant on bail pending disposal of the Crl.A.



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For Petitioner : Mr.S.Saravana Kumar
for M/s.C.Samivel

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by S.M.SUBRAMANIAM, J)

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner vide judgement and order dated 10.03.2022 passed in S.C.No.121 of 2018 on the file of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri, and to enlarge the petitioner on bail till the disposal of the appeal.

2. The petitioner in the above Sessions Case, was convicted and sentenced for the offences under Section 302, r/w 114 & 34 of IPC and was sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/- in default to undergo rigorous imprisonment for 1 year.



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3. Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal and he seeks suspension of sentence in the present petition.

4. The learned counsel appearing for the petitioner stated that the first accused is the son of the second accused and he was minor at the time of occurrence and therefore, he was tried by the Juvenile Justice Board. The Juvenile Justice Board has acquitted the first accused who caused the fatal blow. The learned counsel further submitted that the conviction is based on the evidence of interested witnesses. The learned counsel also pointed out that some of the witnesses turned hostile and therefore, the prosecution failed to establish the case as against the petitioner beyond reasonable doubt. Hence, seeks to suspend the sentence.

5. The learned Additional Public Prosecutor appearing on behalf of the 'State' objected the contentions made on behalf of the petitioner/accused and submitted that the prosecution has proved the charges against the



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accused, beyond reasonable doubt, by sufficing evidence. Therefore, the Trial Court rightly found him guilty, convicted and sentenced the petitioner. The crime committed by the petitioner / accused being a serious one, sentence need not be suspended and seeking to dismiss the present criminal miscellaneous petition

6.We have considered the arguable points raised by the learned Counsel appearing on behalf of the petitioner.

7.Considering the above facts and circumstances and also considering the fact that the first accused, who was a juvenile, had been tried independently by the Juvenile Justice Board and acquitted. Since the petitioner before us is the second accused, who is none other than the father of the first accused, has been charged with aid of Section 34 of IPC. Therefore, the petitioner has made out a prima facie case. Thus, we are inclined to grant the relief of suspension of sentence pending disposal of the Criminal Appeal to the petitioner herein.



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8. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment imposed by the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri, in S.C.No.121 of 2018 dated 10.03.2022 is **suspended** on the following conditions:

- (i) The petitioner 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 Sessions Judge, Fast Track Mahila Court, Krishnagiri.
- (ii) The 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; and
- (iii) The 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.

[S.M.S., J.] [V.S.G., J.]
20.08.2024



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To

- 1.The Sessions Judge,
Fast Track Mahila Court,
Krishnagiri.
- 2.The Inspector of Police
Kaveripattinam Police Station,
Krishnagiri District
- 3.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.
- 4.The Superintendent of Prisons,
Central Prisons,
Vellore.



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S.M.SUBRAMANIAM, J.
AND
V.SIVAGNANAM, J.

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