



Crl.MP.No.3540 of 2024 in Crl.A.No.249 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.08.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.MP.No.3540 of 2024 in Crl.A.No.249 of 2024

Perumal

...Petitioner / Appellant

Versus

The State rep. by
The Inspector of Police,
Yelagiri Police Station,
Thiruppathur District.
Crime No.79 of 2013

.. Respondent

Prayer:-Civil Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed against the petitioner in S.C.No.10 of 2020 on the file of learned III Additional District and Sessions Court, Thiruppathur, Vellore District dated 02.02.2024 and enlarge the petitioner on bail pending disposal of the said Crl.A.No.249 of 2024.



WEB COPY



Crl.MP.No.3540 of 2024 in Crl.A.No.249 of 2024

For Petitioner : Mr.V.Parthiban for Mr.E.Kannadasan

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

ORDER

[Order of the Court was made by V.SIVAGNANAM, J]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner vide judgement and order dated 02.02.2024 passed in S.C.No.10 of 2020 on the file of the learned III Additional District and Sessions Court, Thiruppathur, Vellore District, 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 364 IPC and was sentenced to undergo rigorous imprisonment for 5 years and to pay a fine of Rs.10,000/- in default to undergo rigorous imprisonment for 6 months; under Section 302 IPC and was sentenced to undergo life imprisonment and to pay a fine Rs.10,000/-, in default to undergo simple imprisonment for 6 months.



Crl.MP.No.3540 of 2024 in Crl.A.No.249 of 2024

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 for the petitioner submitted that the prosecution case rest upon the circumstantial evidence. The only circumstance against the accused is the evidence of PW27. According to the prosecution, he saw the accused along with the deceased before the date of occurrence. The witness identified him during the identification parade. But he was shown at Police Station before conducting the identification parade. Therefore, much reliance could not be placed on the identification parade. Apart from that, there is no incriminating evidence against the accused to complete the circumstance. There is a valid point in favour of the accused. The accused is under custody from 02.02.2024. Hence, seeks to suspend the sentence.

5. The learned Additional Public Prosecutor appearing for the State submitted that, PW27 evidence is a reliable one and all the incriminating circumstances are proved against the accused. There is no reason to reject



Crl.MP.No.3540 of 2024 in Crl.A.No.249 of 2024

the circumstantial evidence. The trial Court rightly accepted the incriminating circumstance against the accused and found guilty of the accused and sentenced him. There is no merit in this case and thus, pleaded for dismissal of this petition.

6.We have considered the incriminating circumstances against the accused.

7.On perusal of records, it is seen that the prosecution mainly relied upon the evidence of PW27, who identified the accused during the identification parade and he was seen with the deceased, immediately before the occurrence. There is no other incriminating circumstance against the accused. The circumstances from which the conclusion of guilty is to be drawn should fully be established. In this case, except the evidence of PW27, no other evidence is available. Even this evidence is also doubtful, because the accused was shown to PW27 at the Police Station before conducting the identification parade. It is evidenced in the cross examination of the PW27. There must be a chain of events to complete the circumstances



Crl.MP.No.3540 of 2024 in Crl.A.No.249 of 2024

WEB COPY

against the accused. But in this case, it is doubtful and there is an argumental point in favour of the petitioner.

8.Considering the above facts and circumstances and also considering the fact that the petitioner is in prison from 02.02.2024 and the appeal is not likely to be taken up in the near future, we are inclined to grant the relief of suspension of sentence to the petitioner herein.

9. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment is **suspended** and the sentence imposed on the petitioner 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 Judicial Magistrate No.III, Thirupathur.
- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court



WEB COPY



Crl.MP.No.3540 of 2024 in Crl.A.No.249 of 2024

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 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.

[S.M.S., J.]

[V.S.G.,
J.]

13.08.2024

gd



WEB COPY



Crl.MP.No.3540 of 2024 in Crl.A.No.249 of 2024

To

- 1.The Judicial Magistrate No.III, Thirupathur.
- 2.The Inspector of Police,
Yelagiri Police Station,
Thiruppathur District.
- 3.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.
- 4.The Superintendent of Prisons,
Central Prisons,
Vellore.



WEB COPY



Crl.MP.No.3540 of 2024 in Crl.A.No.249 of 2024



WEB COPY



Crl.MP.No.3540 of 2024 in Crl.A.No.249 of 2024

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

gd

Crl.MP.No.3540 of 2024 in Crl.A.No.249 of 2024

13.08.2024