



*Crl.M.P.No.3610 of 2024
in Crl.A.No.297 of 2022*

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

CORAM :

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

Crl.M.P.No.3610 of 2024
in Crl.A.No.297 of 2022

Taj Nisha

.. Petitioner/Appellant

Versus

State represented by,
Inspector of Police,
R-1 Mambalam Police Station,
T.Nagar, Chennai - 600 017.
(Crime No.1795 of 2014)

.. Respondent/Respondent

Prayer : Criminal Miscellaneous Petition filed under Section 389 [1] of the Crl.P.C., 1973, to suspend the judgment of conviction and sentences made on 29.12.2021 in S.C.No.117 of 2015 on the file of the learned Sessions Judge, Mahalir Neethimandram, Chennai, Chennai district and enlarge the petitioner on bail pending disposal of the above criminal appeal in Crl.A.No.297 of 2022 on the file of this Court.

For Petitioner : Mr.R,Shunmugasundaram,
Senior Counsel,
for Mr.H.Manivannan



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*Crl.M.P.No.3610 of 2024
in Crl.A.No.297 of 2022*

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

ORDER

(Order of the Court was made by **SUNDER MOHAN, J.**)

This Criminal Miscellaneous Petition is filed seeking to suspend the judgment of conviction and sentence made on 29.12.2021 in S.C.No.117 of 2015 on the file of the learned Sessions Judge, Mahalir Neethimandrum, Chennai and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

2. The case of the petitioner is that the deceased was married to the son of the petitioner and after marriage, they were living with the petitioner who is the mother-in-law of the said deceased; that there were frequent quarrels between the petitioner and the deceased; that the deceased accused the petitioner of having illicit relationship with her own son (husband of the deceased) which infuriated the petitioner; and that the petitioner poured hot water on the deceased, as a result of which, the deceased sustained burn injuries and died 25 days after the occurrence.



Crl.M.P.No.3610 of 2024
in Crl.A.No.297 of 2022

WEB COPY

3. The learned Senior Counsel would submitted that the evidence would reveal that the petitioner did not intend to cause the death of the deceased; that there was a quarrel and in the melee, hot water fell on the deceased; that an accidental act is sought to be projected as an intentional act of the petitioner; that the earliest version which is the entry made in Ex.P4, Accident Register shows that the deceased sustained burn injuries due to pouring of hot water; and that however, in the Dying Declaration (Ex.P21), it is stated that the deceased sustained burn injuries due to pouring of hot oil. In view of the contradictions, the learned Senior Counsel prayed for grant of suspension of sentence.

4. The learned Additional Public Prosecutor, per *contra*, submitted that the Dying Declaration given by the deceased is cogent and convincing and the entry made in the Accident Register by itself cannot be a reason to disbelieve the Dying Declaration. Hence, he submitted that the Trial Court had rightly considered all the evidence and convicted the petitioner; and prayed for dismissal of the petition.



*Crl.M.P.No.3610 of 2024
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WEB COPY

5. We have carefully considered the rival submissions and perused the records.

6. Admittedly, the petitioner is in custody from 29.12.2021. It is seen from the records that the earliest version which is the entry made in the Accident Register (Ex.P4) by P.W.4 shows that that the deceased sustained burn injuries due to pouring of hot water. The Doctor, P.W.9, who had subsequently examined the victim in Kilpauk Medical College, had stated that the deceased sustained 35% burn injuries due to pouring of hot water and then she was discharged against the medical advice by the father of the deceased. Though the subsequent version is that hot oil was poured on the deceased, we are of the view that the matter requires consideration and prima facie case for acquittal has been made out in favour of the petitioner in view of the contradictions and the other evidence on record suggesting that it was an accident. Though the earlier petition for suspension of sentence was dismissed on 04.01.2023, it is seen that the above discrepancies were not pointed out when the matter was decided by the earlier Division Bench.



*Crl.M.P.No.3610 of 2024
in Crl.A.No.297 of 2022*

WEB COPY

7. Considering the above and the fact that the petitioner is in custody from 29.12.2021 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.

8. Accordingly, this Criminal Miscellaneous Petition stands allowed and the sentence of imprisonment is suspended 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 Sessions Judge, Mahalir Neethimandrum, Chennai;

(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 and if she is not able to appear before the trial Court on any day, she shall make arrangements to file an application under Section 317 Cr.P.C. and shall



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Crl.M.P.No.3610 of 2024
in Crl.A.No.297 of 2022

appear before the trial Court on any other day in lieu of the date of her absence, as directed by the trial Court.

[M.S.R., J] [S.M., J]
05.07.2024

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

Note :- Issue order copy on 08.07.2024

To

1. The Sessions Judge,
Mahalir Neethimandrum,
Chennai.
2. The Inspector of Police,
R-1 Mambalam Police Station,
T.Nagar, Chennai - 600 017.
3. The Superintendent of Prisons,
Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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*Crl.M.P.No.3610 of 2024
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**M.S.RAMESH, J.
AND
SUNDER MOHAN, J.**

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Crl.M.P.No.3610 of 2024
in Crl.A.No.297 of 2022

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