



CrLMP.No.4907 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

CrLMP.No.4907 of 2024
in CrL.A.No.320 of 2024

Balaguru

...Petitioner

Versus

State represented by,
The Inspector of Police,
Uthukuli Police Station,
Tiruppur District,
Crime No.434 of 2018.

...Respondent

Prayer:- Criminal Miscellaneous Petition filed under Section 389 (1) of Cr.P.C.,to suspend the judgment in S.C.No.123 of 2021, on the file of the learned Principal Sessions Judge, Tiruppur, dated 23.08.2022 and enlarge the petitioner on bail.

For Petitioners : Mr.J.Jayan
for Mr.N.Arun Kumar

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

ORDER



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[Order of the Court was made by S.M.SUBRAMANIAM, J]

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This criminal miscellaneous petition has been filed seeking to suspend the judgment in S.C.No.123 of 2021, on the file of the learned Principal Sessions Judge, Tiruppur, dated 23.08.2022 and enlarge the petitioner on bail.

2.The learned counsel for the petitioner would submit that the conviction was made based on the last seen theory. Suspension of sentence was granted in respect of A3 and therefore, the present petition is also to be considered.

3.We have gone through the order dated 11.12.2023, passed in CrL.M.P.No.2136 of 2023, in CrL.A.No.1144 of 2022, wherein, suspension of sentence was granted for A3 and this Court has made a specific finding as follows:

5.On perusal of the records, we find that the body of the deceased was recovered from the house of A1. There is no recovery of any weapon or any article from A3 which would connect A3



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with the crime. Admittedly, there is no motive alleged against A3. It is well settled that conviction cannot be based on the circumstance of last seen alone. In such circumstances, finding that the petitioner has got a fair chance of success in the appeal as against his conviction, we are inclined to suspend the sentence.

6. In view of the above finding, the petitioner herein cannot claim the similar treatment of granting suspension of sentence extended to A3. Consequently, this criminal miscellaneous petition stands dismissed.

[S.M.S., J.]

[M.J.R.,
J.]

13.12.2024

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To

1.The Principal Sessions Judge, Tiruppur,.

2.The Inspector of Police,
Uthukuli Police Station,
Tiruppur District,
Crime No.434 of 2018.

3.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

S.M.SUBRAMANIAM, J.

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AND
M.JOTHIRAMAN, J.

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