



Crl.M.P.No.4456 of 2024
in Crl.A.No.299 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

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in Crl.A.No.299 of 2024

1.N.Raja
2.C.Thirugnanam
3.M.Murugan
4.P.Jayamurugan
5.R.Naveenkumar
6.M.Ramesh
7.M.Santhosh
8.M.Lakshmikanth
9.C.Dharani
10.Tamilarasu

... Petitioners

Vs.

The State rep. by
Inspector of Police,
Kalambur Police Station,
(Crime No.724/2018)

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389(1) of Code of Criminal Procedure, to suspend the substantive sentence imposed upon the petitioners by the judgment passed in S.C.No.102 of 2021 dated 23.02.2024 on the file of the Principal Sessions Judge, Tiruvannamalai and to enlarge the petitioners on bail.

For Petitioners : Mr.Adithya Varadarajan

For Respondent : Mr.R.Kishore Kumar, GA (Crl.Side)



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ORDER

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This petition has been filed to suspend the sentence imposed on the petitioners by the judgment passed in S.C.No.102 of 2021 dated 23.02.2024 on the file of the Principal Sessions Judge, Tiruvannamalai and enlarge the petitioners on bail pending disposal of the above Criminal Appeal.

2. The petitioners have been convicted by the Trial Court in S.C.No.102 of 2021 for the offences under Sections 147, 148, 448, 294(b), 304 r/w 149 IPC, 324 r/w 149 IPC, 506(ii) IPC & Section 3(1) of TNPPDL Act and sentenced them as under:

Rank	Charges	Result	Punishment
A1 to A10	U/s.294(b) IPC	Not proved	Acquitted u/s.235(1) of Cr.P.C.
A6 & A7	U/s.148 IPC	Not proved	Acquitted u/s.235(1) of Cr.P.C.
A1 to A10	U/s.3(1) TNPPDL Act	Not proved	Acquitted u/s.235(1) of Cr.P.C.
A1 & A2	U/s.148 IPC	Proved	Convicted and sentenced to undergo S.I for each one year. No fine amount
A1 to A10	U/s.448 IPC	Proved	Convicted and sentenced to undergo S.I for each one year. No fine amount
A1 to A10	U/s.323 r/w 149 IPC [PW.7 injured]	Proved	Convicted and sentenced to undergo S.I for each one year. No fine amount
A1 to A10	U/s.506(ii) IPC	Proved	Convicted and sentenced to undergo S.I for each one year. No fine amount



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Rank	Charges	Result	Punishment
A1 to A10	U/s.307 r/w 149 IPC [PW.6, PW.9 & PW.12 injured]	Proved 3 counts	Convicted and sentenced to undergo R.I for each three years for each counts with fine of Rs.2,000/- each, in default R.I. For 3 months.

Challenging the same, the petitioners preferred an appeal before this Court and seek suspension of sentence.

3. The contention of the petitioner is that in this case there are four projected eye witnesses namely PW.6, PW.7, PW.9 and PW.12. PW.1 is the wife of PW.9. The case projected against the petitioner is that on 04.11.2018, between 12.00 to 12.30 a.m., the petitioners are said to have armed with machete and sticks had entered into the house of PW.1 attacked the above persons. The reason for the attack is that there was family dispute between A1 and PW.1. In this case, the petitioners were charged, apart from committal offences and offence under Section TNPPDL Act, for damaging the car, window and other articles. But the trial Court had acquitted them for the charges under Section TNPPDL Act.



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4. The case projected is that PW.6, PW.7 & PW.12 are friends of PW.9, who all were chatting, at that time the occurrence had taken place.

Though the occurrence is said to have taken place out side the house and more than ten persons attacked them at the night, no witnesses including neighbours not examined in this case. PW.1 evidence is that more than 30 persons entered the house attacked, but PW.9 evidence is that A1 to A10 attacked them and . PW.7 informs the causality doctor, one person attacked. There is contrary evidence with regard to how many persons entered the house, involved in the attack. In this case injury sustained by A1 not considered and in Accident Register marked as Ex.D1. He further submitted that PW.1 evidence is that witnesses sustained bleeding injury and blood was found all over the place, but the Investigating Officer in the Observation Mahazar not recorded the presence of blood. He further submitted that a family dispute, heated arguments, exchange of blow between two groups magnified and false case registered against them. The ocular evidence and medical evidence are contrary to each other. He further submitted that in this case there is no contemporary medical records to prove grievous injury. There is no medical records produced to confirm



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grievous nature of injury. He further submitted that the trial Court already suspended the sentence.

5. In order to prove the case of the prosecution, the prosecution examined 20 witnesses and marked 21 exhibits and 5 material objects have been marked. On the defence side, one document was marked.

6. The learned Government Advocate (Crl.Side) has filed counter. He further submitted that in this case, though the sentence of A2 was suspended, he is involved in a murder case, which is committed in Sessions Court under Section 302 IPC. He is now confined in central prison, Vellore.

6.1 It is submitted that the case of the prosecution is that on 04.11.2018 at about 17.30 hours, the defacto complainant namely Tmt.Neelaveni lodged a complaint before the respondent police, stating that there was previous family dispute between Natarajan and Thirugnanam of the village. 04.11.2018 when her husband were discussing the dispute with ofther witnesses after midnight at about 12.30 a.m., Nanmaran, Sarathkumar



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and Ashokkumar with his friends namely Raja/A1, Thirugnanam/A2, Murugan/A3, Jayamurugan/A4, Naveenkumar/A5 and some unknown persons entered the compound of her house knocked the door of their house. When her husband opened the door and came out to see them, the said 5 persons abused her husband with filthy language and A1 assaulted her husband on his left side forehead and hand with machete and then he assaulted the Nanmaran who came to prevent ent them with machete and Ashokkumar, Murugan assaulted him with wooden log and Sarathkumar, Naveenkumar/A5 kicked him and assaulted him with wooden log, all 5 persons illegally trespassed in to her house and caused damaged to Television and also damaged the Ertiga Car Bearing Reg.No.TN-25-BF-5839 parked at the out side of the house and threatened the injured. Thereafter, she informed to his mother-in- law and Neethimannan relatives and his friends took her husband to Government Hospital, Arni for treatment. Hence, the complaint.

6.2. It is submitted that based on the above complaint, a case was registered in Kalambur P.S., Crime No. 724 of 2018, U/s.147, 148, 294 (b),



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324, 323, 448, 506(ii) IPC and 3 of PPD Act against the accused persons on 04.11.2018 at about 17.30 hours by Tr.V.Govindasamy, the then Sub Inspector of Police and he taken up for further investigation.

6.3. It is submitted that during the course of investigation, the then Sub Inspector of Police went to the scene of occurrence, drew the rough sketch, prepare an observation mahazar in the presence of witnesses and examined the witnesses and recorded their statements.

6.4. It is submitted that based on the witnesses statements, on 10.11.2018, the then Sub Inspector of Police has altered the section of this case into 147, 148, 294 (b), 324, 323, 448, 506(ii), 307 IPC r/W Sec.3(1) of TNPPDL Act.

6.5. It is submitted that after completion of investigation on 28.10.2020, case was altered into U/s.147, 148, 294 (b), 324, 323, 448, 506(ii), 307, 326, 149, 447 IPC r/w Sec.3(i) of TNPPDL Act and filed charge sheet against the accused.



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6.6. It is submitted that after conclusion of trial, the trial court by its judgment in S.C.No.102 of 2021 dated 23.02.2024, the Principal Sessions Judge, Tiruvannamalai, convicted the Appellants / Accused A1 to A10 and sentenced them as above.

7. Considering the submissions and on perusal of records, the maximum sentence imposed against the petitioners is 3 years. In this case except Accident Register and wound certificate of PW.9, no other documents produced to prove the injuries are grievous. The evidence of PW.1 and PW.9 are contradictory as regards number of persons entering the house and attacking them. Added to it, no public or any of the neighbours examined. There is a family dispute between A1 and PW.1 and possibility of implication is possible. Hence the evidence has to be scrutinised and studied with caution. The trial Court already suspended the sentence till 23.03.2024 as regards all petitioners. As regards A2, since he is involved a case under Section 302 IPC, petition for suspension of sentence as against A2 is dismissed. In view of the above, this Court is inclined to suspend the sentence imposed on the remaining petitioners A1, A3 to A10.



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8. Accordingly, the relief of suspension of sentence and bail is granted on the following conditions till the disposal of the above Criminal appeal:

(a) The petitioners/A1, A3 to A10 are ordered to be enlarged on bail, on condition that they shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned Principal Sessions Judge, Tiruvannamalai.

(b) The petitioners/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioners shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, until the disposal of the appeal and if he is not able to appear before the Trial Court on that day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court



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on any other day in lieu of the date of their absence
as directed by the Trial Court.

9. Accordingly, this Criminal Miscellaneous Petition is ordered.

22.03.2024

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To

1. The Principal Sessions Judge, Tiruvannamalai
2. The Inspector of Police,
Kalambur Police Station,
3. The Public Prosecutor, High Court, Madras.



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M. NIRMAL KUMAR., J.

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