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Crl.MP.Nos.9490/2023 and 6995/2022
in Crl.A.No.534/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.Nos.9490 of 2023 and 6995 of 2022
in
Crl.A.No.534 of 2022

Crl.M.P.No.9490 of 2023

Shanmugam

...Petitioner/Appellant No.1

Versus

State rep by,
The Inspector of Police,
Pagasalai Police Station,
Pagasalai – Post,
Mayiladuthurai - District
(Crime.No.02 of 2020)

...Respondent/Respondent



Crl.MP.Nos.9490/2023 and 6995/2022
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Crl.M.P.No.6995 of 2022

Rajeswari

...Petitioner/Appellant No.2

Versus

State rep by,
The Inspector of Police,
Pagasalai Police Station,
Pagasalai – Post,
Mayiladuthurai – District.
(Crime.No.02 of 2020)

...Respondent/Respondent

Common Prayer:- Criminal Miscellaneous Petitions have been filed under Section 389 [1] & 3 of Cr.P.C., to suspend the sentence imposed in S.C.No. 40 of 2020 dated 07.04.2022 on the file of the learned Session Judge, Additional District Court, Nagapattinam and enlarge the petitioners on bail pending disposal of the above Criminal Appeal.

For Petitioners
in both Crl.M.Ps. : Mr.D.Veerasekharan

For Respondent
in both Crl.M.Ps. : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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COMMON ORDER

[Order of the Court was made by SUNDER MOHAN, J.]

These Criminal Miscellaneous Petitions have been filed seeking to suspend the sentences imposed on the petitioners/A1 & A2 by Judgment and order dated 07.04.2022 passed in S.C.No.40 of 2020 on the file of the learned Session Judge, Additional District Court, Nagapattinam, and to enlarge the petitioners on bail pending disposal of the appeal.

2. The petitioners, who are arrayed as A1 & A2 in the above Sessions Case, was convicted and sentenced as follows:

Accused No.	Offence under Section	Sentence imposed
A1 & A2	341 of the IPC	Each of them sentenced to undergo one month of simple imprisonment and each to pay a fine of Rs.200/- in default each to undergo one week of simple imprisonment.
	302 of the IPC	Each of them sentenced to undergo imprisonment for life and each to pay a fine of Rs.1000/- in default each to undergo one month of simple imprisonment.
	Sentences are directed to run concurrently.	

3. Challenging the above conviction and sentence, the petitioners have



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filed the above Criminal Appeal and they seek suspension of sentence and bail in the present petitions.

4. Heard Mr.D.Veerasekharan, the learned counsel appearing for the petitioners/A1 & A2 and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor appearing for the respondent/State.

5.The case of the prosecution is that the deceased and his wife/P.W.1, had matrimonial differences; that A1 and A2/the wife of A1, were their neighbours; that on 03.01.2020 at about 8.45 p.m., the deceased was abusing his wife/P.W.1; that A2 assumed that the deceased was abusing her and picked up a fight with the deceased; that at about 10.30 p.m., when the deceased left the house, A1 attacked the deceased with a wooden log; and that A2 is said to have stabbed the deceased with scissors.

6. The learned counsel for the petitioners submitted that all the eyewitnesses, except P.W.1, turned hostile; that P.W.1's presence is highly doubtful, and in any case, her version that the occurrence took place near a



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bus stand is falsified by the entries made in the accident register [Ex.P9], which state that the deceased was attacked by two persons by using a sharp knife in his house, and hence, he prayed for suspension of sentence.

7. The learned Additional Public Prosecutor for the respondent/State, *per contra* opposing the petition for suspension of sentence, submitted that there is no infirmity in the Judgment of the Trial Court, and prayed for dismissal of the petition.

8. We have carefully considered the rival submissions on both sides and perused the records.

9. On perusal of the record, it is seen that, except for P.W.1, all other eyewitnesses, including the daughter and son of the deceased, did not support the prosecution case. It is the case of the prosecution that the occurrence took place near a bus stand. However, the entries in the accident register [Ex.P9] would suggest that the assault on the deceased was made in the house of the deceased with a sharp knife. This is contrary to the



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prosecution case that A1 attacked the deceased with a wooden log and A2 stabbed the deceased with scissors. Therefore, in view of the above infirmities in the prosecution case, we are of the *prima facie* view that the petitioners have a fair chance of success in the appeal.

10. Considering the above and the fact that the petitioners are in custody since 07.04.2022 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 petitioners herein/A1 & A2.

11. Accordingly, this criminal miscellaneous petitions stands **allowed** and the sentence imposed on the petitioners/A1 & A2 is suspended on the following conditions:

- (i) Each of the petitioners 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 Session Judge, Additional District Court, Nagapattinam;
- (ii) The petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may



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obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and

(iii) The petitioners 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 they are not able to appear before the trial Court on any day, they 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 their absence, as directed by the trial Court.

[M.S.R.,J.] [S.M.,J.]
27.06.2024

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Issue order copy by 02.07.2024
Upload the order copy forthwith.

Internet: Yes

Copy to:-

1.The Session Judge, Additional District Court,
Nagapattinam.



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- 2.The Inspector of Police,
Pagasalai Police Station,
Pagasalai – Post,
Mayiladuthurai – District.
- 3.The Superintendent of Prisons,
Central Prison, Thiruchirapalli.
- 4.The Superintendent of Prisons,
Special Prison for Women, Thiruchirapalli.
- 5.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

M.S.RAMESH,J.,
and
SUNDER MOHAN,J.,



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