



Crl.MP.No.4699 of 2023 in Crl.A.No.362 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.01.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.4699 of 2023 in Crl.A.No.362 of 2023

1.Jothimani
2.Lakshmi
3.Parameshwari
4.Kumaresan
5.Annadurai
6.Moorthi
7.Pappammal

.. Petitioners/Accused 1 to 7

Versus

State rep.by
The Inspector of Police
Erode North Police Station,
Erode District.
(Cr.No.561 of 2018)

.. Respondent

Prayer:- Civil Miscellaneous Petition filed under Section 389[1] and [2] and 439 of Cr.P.C., to suspend the sentence imposed in S.C.No.30 of 2019 dated 30.11.2022 on the file of the Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Erode and enlarge the petitioners on bail pending disposal of the above Criminal Appeal.



Crl.MP.No.4699 of 2023 in Crl.A.No.362 of 2023

For Petitioners : Mr.A.Thiyagarajan
For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

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

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioners by judgment and order dated 30.11.2022 passed in SC No.30 of 2019 on the file of the learned Sessions Judge, Magalir Neethimandram (FT Mahila Court), Erode, and to enlarge the petitioners on bail pending disposal of the appeal.

2. The petitioners, who are arrayed as A1 to A7 in the above Sessions Case, were convicted and sentenced as follows:

Accused No.	Offence under Section	Sentence imposed
A1	302 r/w 34 of IPC	To undergo rigorous imprisonment for life along with fine of Rs.5,000/- in default to undergo simple imprisonment for three months.
	324 of IPC	To undergo rigorous imprisonment for two years.
	506(ii) of IPC	To undergo rigorous imprisonment for three years.



Crl.MP.No.4699 of 2023 in Crl.A.No.362 of 2023

A2 to A7	302 r/w 34 of IPC	Each of them to undergo rigorous imprisonment for life along with fine of Rs.5,000/- in default to undergo simple imprisonment for three months.
----------	-------------------	--

3. Challenging the above conviction and sentence, the petitioners (A1 to A7) have filed the above Criminal Appeal and they seek suspension of sentence and bail in the present petition.

4. Heard the learned counsel for the petitioners and Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the respondent/State.

5. (i) It is the case of prosecution that A2/Lakshmi, and one Manikandan had an estranged marital relationship; that the deceased Selvakumar was a cousin of said Manikandan; that Selvakumar and his family members pacified A2 and compelled her to live with Manikandan; that Jothimani/A1 and the other family members who are the petitioners (A1 to A7), were not happy with that and hence on 09.08.2018 at about 12.30 p.m, the petitioners restrained the deceased and an altercation arouse between them; that one of the persons who came with the deceased informed



Crl.MP.No.4699 of 2023 in Crl.A.No.362 of 2023

WEB COPY

the other family members of the deceased and Manikandan and they also came to the place of occurrence; and that on that time, A1/Jothimani, assaulted the deceased with Scissors on his chest, A2/Lakshmi, with iron pipe, A3/Parameshwari with Bamboo stick, A4/Kumaresan and A5/Annadurai with wooden logs, A6/Moorthi with stone, A7/Pappammal and A8/Kannaiyan with hands.

6. Mr.A.Thiyagarajan, the learned counsel for the petitioners/A1 to A7, submitted that except for A4 to A6, the other petitioners are ladies, and all of them have been falsely implicated. P.W.1, the wife of the deceased, who supported the prosecution case, is unreliable, and her presence is highly doubtful; that P.W.2, P.W.4, P.W.5, and P.W.8 turned hostile.

7. Per contra, Mr.E.Raj Thilak, the learned Additional Public Prosecutor for the respondent/State, submitted that the prosecution has proved this case beyond reasonable doubt and hence prayed for dismissal of the petition.



WEB COPY

8. We carefully considered the rival submissions on either side and perused the records.

9. P.W.1 and P.W.3 are the eyewitnesses to the occurrence. Amongst the petitioners, we find that petitioners 1 to 3 and 7 are ladies. P.W.6, the brother of the deceased, admitted that the deceased was facing a murder case. The independent witnesses have all turned hostile. The seventh petitioner is a lady aged about 74 years, and the eighth accused, who died during trial, was aged about 78 years.

10. Considering that the accusation has been made against ladies and elderly persons in the family, the fact that independent eyewitnesses have turned hostile and the fact that the petitioners (A1 to A7) have been in custody for more than fourteen months and that the appeal is not likely to be taken in the near future, we are of the considered view that it is a fit case to grant the relief of suspension of sentence to the petitioners (A1 to A7) herein.



Crl.MP.No.4699 of 2023 in Crl.A.No.362 of 2023

11. Accordingly, this criminal miscellaneous petition stands **allowed**, the sentence of imprisonment is **suspended**, and the sentences imposed on the petitioners are suspended on the following conditions:

- (i) Each of the petitioners shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Erode;
- (ii) The petitioners 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 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.

[MSRJ] [SMJ]
12.01.2024

dk/ars

Internet: Yes

Issue order copy by 18.01.2024

Upload the order forthwith.



Crl.MP.No.4699 of 2023 in Crl.A.No.362 of 2023

To

WEB COPY

1. The Sessions Judge,
Magalir Neethimandram (FT Mahila Court),
Erode
2. The Inspector of Police,
Erode North Police Station,
Erode.
3. The Superintendent of Prisons,
Central Prison, Coimbatore.
4. The Superintendent of Prisons,
Central Prison Women, Coimbatore.
5. The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



WEB COPY



Crl.MP.No.4699 of 2023 in Crl.A.No.362 of 2023

M.S.RAMESH, J

and

SUNDER MOHAN, J

dk/ars

Crl.MP.No.4699 of 2023
in Crl.A.No.362 of 2023

12.01.2024