



Crl.M.P.No.5556 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.10.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.M.P.No.5556 of 2024 in CrI.A.No.362 of 2024

1.Palanisamy

2.Jothivelu

...Petitioners/ Appellant

Versus

The State rep. by
The Inspector of Police,
Devattipatti Police Station,
Salem District.
Crime No.402 of 2016.

.. Respondent

Prayer:-Civil Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed against the petitioners in S.C.No.80 of 2017 dated 22.02.2024 passed by the II Additional District and Sessions Judge, Salem, and enlarged on bail, pending disposal of the criminal appeal.



For Petitioners : Mr.B.Vasudevan
For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by V.SIVAGNANAM, J]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed against the petitioners in S.C.No.80 of 2017 dated 22.02.2024 passed by the II Additional District and Sessions Judge, Salem, and enlarged on bail, pending disposal of the criminal appeal.

2. The petitioners in the above Sessions Case, were convicted under Sections 302 r/w 34 IPC and sentenced to undergo rigorous imprisonment for life and fine of Rs.5,000/-, in default to undergo 6 months simple imprisonment to each petitioners in SC.No.80 of 2017 dated 22.02.2024.

3. Challenging the above conviction and sentence, the petitioners have filed the above Criminal Appeal and he seeks suspension of sentence in the present petition.



Crl.M.P.No.5556 of 2024

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4. We have gone through the evidences of PW1 and 4 who appears to be eye witnesses, based on which conviction was granted. The post-mortem report, Ex.P.4 document is also perused by this Court. Considering the evidences, we find that there is no external injuries recorded in the post-mortem report. That being so, we are inclined to grant suspension of sentence to the petitioners.

5. The learned Additional Public Prosecutor could not able to convince this Court with reference to linking materials and thus, the petitioners are entitled for the relief of suspension of sentence.

6. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment is **suspended** and the sentence imposed on the petitioners viz., Palanisamy, S/o.Amaravathy, Male aged 60 years confined at Central Prison, Coimbatore and Jothivelu, S/o.Palanisamy, Male aged 34 years confined at Central Prison, Coimbatore are suspended on the following conditions:



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Crl.M.P.No.5556 of 2024

- (i) The petitioners shall execute separate bond for a sum of Rs.25,000/-, with two independent sureties, each for a like sum to the satisfaction of the learned District Munsiff cum Judicial Magistrate, Omalur.
- (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.

[S.M.S., J.]

[V.S.G.,
J.]

03.10.2024

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Crl.M.P.No.5556 of 2024

To

- 1.The District Munsiff cum Judicial Magistrate, Omalur.
- 2.The Inspector of Police,
Devattipatti Police Station,
Salem District.
- 3.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.
- 4.The Superintendent of Prisons,
Central Prisons,
Coimbatore.



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Crl.M.P.No.5556 of 2024

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V.SIVAGNANAM, J.

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