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Crl.MP.No.5643/2024 in Crl.A.No.1050/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.08.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.MP.No.5643/2024 in Crl.A.No.1050/2023

1. Vivek
2. Dinesh

.. Petitioners/Appellants

Versus

State represented by
The Inspector of Police,
J-4, Kotturpuram Police Station,
Chennai.
(Crime No. 1814/2012)

.. Respondent

Prayer:-Civil Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence and enlarged on bail imposed in S.C.No. 288 of 2013 dated 23.08.2023 on the file of the I Additional Sessions Judge, Chennai, against the petitioners/appellants, pending disposal of the Crl.A.No. 1050 of 2023, on the file of this Court.



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Crl.MP.No.5643/2024 in Crl.A.No.1050/2023

For Petitioner : Mr.R.Sankarasubbu
for Mr.Ilayaraja Kandasamy

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 on the petitioners vide judgement and order dated 23.08.2023 passed in S.C.No.288 of 2013 on the file of the I Additional Sessions Judge, Chennai, and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioners are A2 and A3 in SC.No.288 of 2013 on the file of the I Additional Sessions Judge, Chennai.

3. The respondent/police prosecuted against the petitioners along with other accused for the offences punishable under Section 302 r/w 34 of IPC.



Crl.MP.No.5643/2024 in Crl.A.No.1050/2023

WEB COPY

4. The trial court after trial found guilty and convicted and sentenced as follows:

"The accused persons A1 and A3 are held guilty of the charge under Section 302 r/w 34 of IPC and convicted of the said charge. The accused A1 to A3 are sentenced to undergo imprisonment for life under Section 302 r/w 34 of IPC. A1 to A3 are further ordered to pay a fine of Rs.10,000/- each. In default of payment of fine, the defaulting accused shall undergo further Simple Imprisonment for a period of two years."

5. Aggrieved by this conviction and sentence, the petitioners A2 and A3 filed the appeal in which filed this petition for suspension of sentence

6. In this case, P.W.1/Arunkumar is the eye witness for the occurrence.

7. The learned Counsel appearing on behalf of the petitioner submitted that there is no specific overt act against the petitioners and further submitted that P.W.1/Arunkumar had given his statement before



Crl.MP.No.5643/2024 in Crl.A.No.1050/2023

WEB COPY

P.W.11/Dr.Anand and stated that he do not know how the deceased sustained injuries. Contrary to this, P.W.1 deposed before the Court as though he witnessed the occurrence. Therefore, his evidence is not reliable. The trial court relying upon the evidence of P.W.1, found guilty and convicted the petitioners accused A2 and A3. There is an arguable point in favour of the petitioners accused seeking to suspend the sentence.

8. The learned Additional Public Prosecutor contended that there is overt act against all the petitioners. On evidence, the trial court found guilty and convicted the accused persons. Hence, there is no reason and no ground to suspend the sentence.

9. On perusal of records and the evidence of P.W.1/Mr.Arunkumar, it is seen that he deposed against the accused persons. His evidence is very clear about the occurrence. On perusal of the evidence of P.W.11/Dr.M.R.Anand, he recorded in the Accident Register that while admitting the deceased, P.W.1 had stated that he did not know how the deceased sustained injuries either assaulted by someone or by



Crl.MP.No.5643/2024 in Crl.A.No.1050/2023

WEB COPY

falling down himself. This statement recorded by the Doctor/P.W.11 is not a strong ground to disbelieve the evidence of P.W.1 deposed before the trial court.

10. Under these circumstances, we find no good reason to suspend the sentence against the petitioners accused and we find no merit in the petition. Hence dismissed.

[S.M.S., J.] [V.S.G., J.]
07.08.2024

veda

Internet: Yes



Crl.MP.No.5643/2024 in Crl.A.No.1050/2023

To

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1. The I Additional District and Sessions Court,
Chennai.
2. The Inspector of Police,
J-4, Kotturpuram Police Station,
Chennai.
3. The Central Prison,
Puzhal-1,
Chennai
4. The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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S.M.SUBRAMANIAM, J.

and

V.SIVAGNANAM, J.

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