



WEB COPY



Crl.MP.No.6507/2023 in Crl.A.No.532/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.03.2024

PRONOUNCED ON : 27.03.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.6507/2023
in Crl.A.No.532/2023

1.Rajamanickam
2.Chinnathambi

.. Petitioners/Accused 1 and 2

Versus

State rep.by
The Inspector of Police
Thirumannur Police Station,
Ariyalur District.
(Cr.No.129 of 2016)

.. Respondent/Complainant

Prayer:- Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed in S.C.No.38 of 2017 dated 07.04.2021 on the file of the learned Principal District and Sessions Judge, Ariyalur and enlarge the petitioners on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.C.D.Johnson
For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor



Crl.MP.No.6507/2023 in Crl.A.No.532/2023

Assisted by Mr.Aravind .C

WEB COPY

ORDER

[Order of the Court was delivered 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 07.04.2021 passed in SC No.38 of 2017 on the file of the learned Principal District and Sessions Judge, Ariyalur, and to enlarge the petitioners on bail pending disposal of the appeal.

2. The petitioners, who are arrayed as accused 1 and 2 in the above Sessions Case, were convicted and sentenced as follows:

Accused No.	Offence under Section	Sentence imposed
A1	294(b) IPC	To undergo RI for three months.
	302 IPC	To undergo life imprisonment and to pay a fine of Rs.10,000/- in default to undergo RI for two years.
	Sentences were ordered to run concurrently	
A2	302	To undergo life imprisonment and to pay a fine of Rs.10,000/- in default to undergo RI for two years.



Crl.MP.No.6507/2023 in Crl.A.No.532/2023

3. Challenging the above conviction and sentence, the petitioners 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. The case of the prosecution is that on account of prior enmity between the deceased and the accused with regard to usage of a pathway, on 10.06.2016 at about 9.00 a.m., the accused attacked the deceased with a Bill Hook and Spade and caused injuries, and the deceased succumbed to injuries. Hence, a case was registered in Crime No.129 of 2016, against the petitioners/A1 and A2 for the offences under Sections 294(b) and 302 of the IPC.

6. The learned counsel for the petitioners submitted that it is the case



WEB COPY

of PW1 that the offence was witnessed by her close relative-PW2 and her minor son-PW3; that PW2 turned hostile and all other crucial witnesses turned hostile and the evidence of PW1 cannot be believed; and since the occurrence took place during night hours, the version of PW1 that she saw the occurrence in a torch-light, is improbable. The learned counsel further submitted that 2nd petitioner/A2 is aged about 70 years and is sick. Hence, the learned counsel prayed that the sentence imposed on the petitioners may be suspended.

7. The learned Additional Public Prosecutor *per contra* submitted that PW1's evidence is cogent and convincing, which is corroborated by PW3; that there is no delay in lodging of the FIR; and that the petitioners have not made out a case for suspension of sentence.

8. We have carefully considered the rival submissions and perused the evidence on record.

9. After hearing the submissions of the learned counsel for the



Crl.MP.No.6507/2023 in Crl.A.No.532/2023

petitioners, we were not inclined to suspend the sentence, in so far as the 1st petitioner/A1 is concerned and hence, the learned counsel for the petitioners has made an endorsement to withdraw the petition as regards the 1st petitioner/A1. ***Hence, this petition stands dismissed as withdrawn, as against the 1st petitioner/A1.***

10. As regards the 2nd petitioner/A2, considering the nature of ***overt acts*** attributed against him; that the victim has spoken about the motive of A1 alone in the complaint; that the 2nd petitioner/A2 is sick, aged about 70 years and that is in custody from 07.04.2021; and that the appeal is not likely to be taken up in the near future, we are inclined to suspend the sentence in so far as the 2nd petitioner/A2 alone.

11. Accordingly, this criminal miscellaneous petition stands **allowed** in so far as the 2nd petitioner/A2 is concerned and the sentence imposed on him is suspended on the following conditions:

- (i) the 2nd petitioner/A2 shall execute a bond for a sum of Rs.25,000/-, with two independent sureties, each for a



WEB COPY



Crl.MP.No.6507/2023 in Crl.A.No.532/2023

like sum to the satisfaction of the learned Principal District and Sessions Judge, Ariyalur;

- (ii) The 2nd petitioner/A2 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 2nd petitioner/A2 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 he is not able to appear before the trial Court on any day, he 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 his absence, as directed by the trial Court.

[MSRJ] [SMJ]
27.03.2024

ars
Speaking/Non-Speaking order
Neutral Citation: Yes/No

Issue order copy by 27.03.2024
Upload the order forthwith.



Crl.MP.No.6507/2023 in Crl.A.No.532/2023

WEB COPY

To

- 1.The Principal District and Sessions Judge,
Ariyalur.
- 2.The Inspector of Police,
Thirumannur Police Station,
Ariyalur District.
- 3.The Superintendent of Prisons,
Central Prison, Trichy.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



WEB COPY



Crl.MP.No.6507/2023 in Crl.A.No.532/2023

M.S.RAMESH, J

and

SUNDER MOHAN, J

ars

Pre-delivery order in
Crl.MP.No.6507/2023
in Crl.A.No.532/2023

27.03.2024