



Crl.MP.No.8450 of 2022 in Crl.A.No.633 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.8450 of 2022
in Crl.A.No.633 of 2022

Prakash

...Petitioner/Sole accused

Vs.

State by:
Inspector of Police,
Mayiladuthurai
Mayiladuthurai District
Cr.No.683/2018

... Respondent

Prayer :- Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed on the petitioner by the learned Additional District Judge, Mayiladuthurai in S.C.No.03 of 2019 dated 17.02.2022 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.S.Muthukrishnan

For Respondent : Mr.E. Raj Thilak
Additional Public Prosecutor
Assisted by
Mr.C.Aravind



Crl.MP.No.8450 of 2022 in Crl.A.No.633 of 2022

ORDER

WEB COPY (Order of the Court was delivered by **SUNDER MOHAN, J.**)

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner/sole accused by the learned Additional District Judge, Mayiladuthurai in S.C.No.03 of 2019 dated 17.02.2022 and enlarge him on bail pending disposal of the above Criminal Appeal.

2. The learned Additional District Judge, Mayiladuthurai in S.C.No.03 of 2019, convicted the petitioner herein and sentenced him as follows:

Accused (A1)	Offence	Sentence Imposed
	302 IPC	To undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months simple imprisonment.

3.Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present miscellaneous petition.

4. It is the case of the prosecution that the deceased and the petitioner had a dispute with regard to breaking of a septic tank in the land of the deceased and



that on 12.11.2018, at about 6.00 a.m., when the deceased went to a tea shop, the petitioner abused the deceased in filthy language and attacked him on his head with wooden log, as a result of which, the deceased succumbed to injuries.

5. Learned counsel for the petitioner submits that the wife and daughter of the deceased, who came to be eyewitnesses, could not have seen the occurrence, since the daughter/P.W.4, who admitted the deceased in the hospital, had told the doctor that she came to know that several persons had attacked the deceased. Learned counsel for the petitioner also submits that in any case the other eyewitnesses have spoken about the quarrel and there was no pre-meditation and even if the witnesses are believed it would only be a case of culpable homicide and not murder. The learned counsel further submitted that the accused is in custody from 17.02.2022, and the sentence imposed on him may be suspended.

6. Per contra, the learned Additional Public Prosecutor submits that the motive has been established by the prosecution and in view of the evidence of P.W.6 and P.W.7, who are independent witnesses, the trial Court has rightly convicted the petitioner for the offence and prayed for dismissal of the petition.



WEB COPY 7. We have carefully analysed the rival submissions and perused the records.

8. The entires made in Ex.P.4 Accident Register would show that P.W.1 and P.W.4 could not have witnessed the occurrence. Further, the evidence of P.W.6 and P.W.7 also would suggest that the act of the appellant would only constitute the offence of culpable homicide. However, we hasten to add that the observations are based on our prima-facie view.

9. Considering the above fact and also taking note of the fact that the petitioner is in custody from 17.02.2022 and since the present appeal is not likely to be taken up for hearing in the near future, we are inclined to suspend the sentence.

10. In view of the above, we are suspending the sentence on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only), with two sureties, of whom,



Crl.MP.No.8450 of 2022 in Crl.A.No.633 of 2022

one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Mayiladuthurai.

(ii) The petitioner 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;

(iii) The petitioner 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.

(M.S.R., J.) (S.M., J.)
06.02.2024

SR

Internet : Yes

Index : Yes / No

Note: Issue Order copy today



Crl.MP.No.8450 of 2022 in Crl.A.No.633 of 2022

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

SR

To

1. The Additional District Judge,
Mayildaduthurai.
2. The Judicial Magistrate No.I, Mayiladuthurai
- 2.The Inspector of Police,
Inspector of Police,
Mayiladuthurai
Mayiladuthurai District
Cr.No.683/2018
- 3.The Superintendent,
Central Prison, Tiruchirappalli
- 4.The Public Prosecutor,
High Court, Madras.

Crl.MP.No.8450 of 2022
in Crl.A.No.633 of 2022

06.02.2024