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Crl.MP.No.6801 of 2024

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in
Crl.A.No.465 of 2024

M.DHANDAPANI, J.

This Criminal Miscellaneous petition has been filed under Section 389(1) of Cr.P.C. seeking to suspend the sentence of imprisonment imposed on the petitioners in SC.No.280 of 2019 on the file of the XXI Additional City Civil Court at Allikulam, Chennai, vide judgment dated 27.03.2024 and to enlarge the petitioners on bail, pending disposal of the above criminal appeal.

2. The petitioners/appellants were convicted for the offence under Section 304(ii) r/w 34 of IPC and each of the petitioners were sentenced to undergo rigorous imprisonment for five years and were ordered to pay a fine of Rs.5,000/- each and in default to undergo simple imprisonment for a further period of six months, vide order of conviction dated 27.03.2024 made in SC.No.280 of 2019. Aggrieved by the same, the petitioners have filed the above appeal along with this petition seeking suspension of sentence.



WEB COPY

3. Learned counsel for the petitioners submitted that, the petitioners are innocent and they have not committed any offence as alleged by the prosecution. He further submitted that, there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable. Further, the petitioners are under incarceration for more than four months and they are now confined in Central Prison Puzhal, Prison-I, Chennai. Accordingly, he prays for suspension of sentence.

4. On the above said contentions, heard learned Additional Government Pleader and perused the materials available on record.

5. A perusal of the materials placed on record particularly the impugned order reveals that the petitioners were convicted for the offence u/s 304(ii) r/w 34 of IPC which is heinous in nature and it is pertinent to note that the petitioners herein assaulted the deceased Jerald continuously using fishing net and paddle board, due to which he sustained grievous injuries and died. The menace to the society by such unscrupulous elements



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is more and whenever suspension of sentence is sought for, this Court has to be very circumspect in granting suspension. Suspension has to be granted only if a prima facie case is made out, where contradictions, which are crucial in nature are pointed out. In the case on hand, such crucial contradictions have not been pointed out and in such view of the matter, suspending the sentence, as a matter of course, will set a bad precedent in the society and will cause serious threat to the society, as the cruel act of the petitioners caused death of an innocent person. Therefore, this Court is not inclined to accede to the prayer of the petitioners/appellants seeking suspension of sentence.

6. Hence, this Court is not inclined to suspend the sentence of imprisonment imposed on the petitioners in SC.No.280 of 2019 dated 27.03.2024 and accordingly, this Criminal Miscellaneous petition stands dismissed.

25.07.2024

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