



Crl.MP.No.8191 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.06.2024

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.MP.No.8191 of 2023

in

Crl.A.No.636 of 2023

1. Salaparai Mani alias Mani
2. Sekar @ Gnanasundaram

...Petitioners

Vs.

The State rep. by,
The Inspector of Police,
Yercaud Police Station,
Salem District.
Crime No.53/2016.
...Respondent

Criminal Miscellaneous Petition filed under Section 389(1) r/w
Section 439 of Cr.P.C., to suspend the sentence imposed in SC.No.30 of
2017 dated 25.04.2023 on the file of the learned 1st Additional Assistant
Sessions Judge, Salem and enlarge him on bail pending criminal appeal.

For Petitioners : Mr.B.Sundarapandiyan

For Respondent : Mrs.G.V.Kasthuri,
Additional Public Prosecutor



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ORDER

This Criminal Miscellaneous petition has been filed to suspend the sentence of imprisonment imposed in SC.No.30 of 2017 dated 25.04.2023 on the file of the 1st Additional Assistant Sessions Judge, Salem and to enlarge the petitioners on bail.

2. The petitioners were convicted for the offence under Sections 451 and 395 r/w 397 of IPC and in respect of conviction under Section 451 of IPC, each of the petitioners were sentenced to undergo 4 years imprisonment and were ordered to pay a fine of Rs.5,000/- each and in default of payment of fine, to undergo simple imprisonment for two months and in respect of the conviction under Section 395 r/w 397 of IPC, each of the petitioners were sentenced to undergo 10 years of rigorous imprisonment and were ordered to pay a fine of Rs.5,000/- each and in default of payment of fine, to undergo simple imprisonment for another two months, vide order dated 25.04.2023 made in SC.No.30 of 2017. Aggrieved by the same, the above appeal has been filed along with this petition seeking suspension of sentence.



3. Learned counsel for the petitioners submitted that, the petitioners are innocent and they have been falsely implicated in this case. He further submitted that, there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable and petitioners are now confined in Central Prison, Coimbatore. Accordingly, he prayed for appropriate orders.

4. Learned Additional Public Prosecutor appearing for the respondent submitted that the petitioners are habitual offenders and there are ten previous cases pending against the 1st petitioner and there are two previous cases pending against the 2nd petitioner. Hence, she vehemently opposed for suspension of sentence imposed on the petitioners.

5. A perusal of the material documents placed on record reveals that, apart from the present case, there are six other cases filed as against the 1st petitioner for the offences which are of heinous in nature. Hence, this Court is not inclined to suspend the sentence of imprisonment imposed on the 1st petitioner in SC.No.30 of 2017 dated 25.04.2023.



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6. Insofar as the 2nd petitioner is concerned, apart from this case, he was convicted in another case for offences which are not heinous in nature.

Hence, this Court is of the view that the 2nd petitioner is entitled for the relief of suspension of sentence.

7. Accordingly, the substantive sentence of imprisonment alone is suspended in respect of the 2nd petitioner alone and the 2nd petitioner is directed to be enlarged on bail, on condition that the 2nd petitioner shall appear and execute a bond for a sum of Rs.10,000/-(Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the Judicial Magistrate No.V, Salem and on further condition that the 2nd petitioner shall appear before the respondent police on every Monday at 10.30 am, pending appeal.

8. Further, it is made clear that, if the 2nd petitioner indulges in similar offence in the future, the suspension of substantive sentence alone granted today will automatically stand dismissed without any further reference to this Court.



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WEB COPY 9. Accordingly, this criminal miscellaneous petition stands **ordered** in respect of the 2nd petitioner and stands **dismissed** in respect of the 1st petitioner.

25.06.2024

skt

To

1. The Judicial Magistrate No.V,
Salem.
2. The Central Prison,
Coimbatore.
3. The Inspector of Police,
Yercaud Police Station,
Salem District..
4. The Public Prosecutor,
High Court of Madras.
5. The 1st Additional Assistant Sessions Judge,
Salem.

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M.DHANDAPANI, J.

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