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*Crl.M.P.No.11136 of 2024
in Crl.A.No.1016 of 2024*

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M. NIRMAL KUMAR, J.

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence imposed on him by the learned XXIII Additional Judge, City Civil Court, Chennai dated 15.04.2024 in S.C.No.410 of 2019 till the disposal of above Criminal Appeal and enlarge the petitioner on bail.

2.The petitioner/accused in S.C.No.410 of 2019 was convicted by the Trial Court by judgment dated 15.04.2024 and sentenced to undergo three years simple imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo three months simple imprisonment for offence under Section 307 IPC. Aggrieved against the said order, the present appeal is filed along with the miscellaneous petition seeking suspension of sentence and bail.

3.The learned counsel for the petitioner submits that the sentence imposed against the petitioner was suspended till 26.06.2024, in the



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meanwhile, he suffered with health ailments and was hospitalized, hence unable to approach this Court within time.

4.The brief facts of the case is that on 20.11.2015, the petitioner went to the house of the defacto complainant and picked him in his two wheeler for collection of chit amount from two persons. After collecting the chit amount, they proceeded to Koyambedu, at that time, the defacto complainant asked Rs.3 lakhs as loan which the petitioner earlier promised to pay after collecting the money from his relative. This being so, at about 3.30 pm., when they were near the Koyambedu market, the petitioner took a knife and stabbed the defacto complainant on his neck and shouted as though the defacto complainant stolen his money and spoken ill of his wife. The defacto complainant lodged a complaint before the respondent police. On completion of investigation, the respondent police filed a final report.

5.During the trial, P.W.1 to P.W.6 examined, Ex.P1 to Ex.P10 and M.O.1 marked on the side of the prosecution. No witnesses examined and no documents marked on the side of the accused. On conclusion of trial, the



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Trial Court convicted the petitioner/accused as stated above.

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6.The contention of the learned counsel for the petitioner is that a story has been narrated by the defacto complainant against the petitioner. He would submit that when P.W.1 was examined, he is unable to give details of the chit or the particulars of two wheeler in which he is said to have travelled with the petitioner and from whom the due amounts were collected at Madipakkam and the places they went together. The defacto complainant having developed enmity against the petitioner, falsely implicated him and the injury sustained by the defacto complainant is also not of serious in nature and utmost it can be only a grievous hurt and the conviction of the petitioner under Section 307 IPC is not sustainable. He further submitted that the Trial Court had already suspended the sentence of the petitioner and it is only due to the health condition, the petitioner could not proceed with the case within the stipulated time.

7.The learned Government Advocate (Crl. Side) on the other hand objected to the petitioner's contention and submitted that on the complaint



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of the defacto complainant, a case in Crime No.892 of 2015 under Sections 341, 294(b), 324, 307 and 506(ii) IPC was registered on 20.11.2015. The respondent visited the scene of occurrence, prepared observation mahazar and rough sketch in the presence of the witnesses. During investigation, the petitioner was arrested and on his confession, M.O.1/knife recovered. In this case, P.W.1 is the injured witness, P.W.2 is an eye witness who came outside on hearing the noise and on seeing P.W.2, the petitioner fled from the scene of occurrence which is corroborated by P.W.3, another eye witness. P.W.5/Doctor recorded the injuries sustained by the defacto complainant in the Accident Register and Wound Certificate. He further submitted that the on the evidence of prosecution witness and the materials produced, the Trial Court had rightly convicted the petitioner. He would further submit that though the petitioner was convicted under Section 307 IPC, sentence imposed is of lesser in nature. He further submitted that the petitioner was given time upto 26.06.2024 to file the above petitioner under Section 389 Cr.P.C. before this Court but he file an appeal only after the period of suspension on 31.06.2024. The petitioner without approaching the Court within time cannot seek any relief. Hence, he prays for dismissal



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of this petition.

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8.Considering the submissions made and on perusal of the materials, it is the case of the petitioner that he was convicted under Section 307 IPC and sentenced to three years rigorous imprisonment. His sentence was suspended till 26.06.2024. In the meanwhile, the petitioner had fallen sick, got admitted and took treatment in the hospital and for that reason only, he was unable to instruct any counsel to file his appeal within the stipulated time. In this case, P.W.1 is the injured witness, P.W.2 and P.W.3 are the public witnesses. The defacto complainant's narration of the events appears highly artificial and further, the injuries sustained by the defacto complainant are not that grievous and it is in non-vital parts. Hence, this Court finds that the conviction of the petitioner needs reconsideration. Therefore, this Court is inclined to suspend the sentence imposed on the petitioners.

9.Accordingly, the relief of suspension of sentence and bail are granted on the following conditions till the disposal of the above Criminal



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(a) The petitioner is directed to deposit a sum of Rs.1,00,000/- [Rupees One Lakh only) to be paid in favour of of Sri Ramachandra University, Porur Branch, Sri Ramachandra University, Ramachandra Nagar, Porur, Chennai-600 116 in A/c.No.CA 6203243021, IFSC Code:IDIB000S180 Indian Bank within a period of two weeks from the date of receipt of a copy of this order. This amount of Rs.1,00,000/- shall be utilized for the purpose head and neck cancer surgeries, Department of Oral and Maxillofacial Surgery.

(b) On such payment and on production of receipt for the payment of aforesaid Rs.1,00,000/-, the petitioner/accused shall 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 XXIII Additional City Civil Court, Chennai within a period of one week.

(c) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Sessions Judge may obtain a copy of their Aadhaar Cards or



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19.08.2024