



Crl.MP.No.10154 of 2024 in Crl.A.No.598 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.MP.No.10154 of 2024 in Crl.A.No.598 of 2022

Rajkumar

...Petitioner / Appellant

Versus

The State rep. by
The Inspector of Police,
T1, Kundrathur Police Station,
Kanchipuram District.
(Crime No.423 of 2015)

.. Respondent

Prayer:-Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed and conviction made in S.C.No.120 of 2015 on 10.06.2022 passed by the Additional Sessions Court, Kanchipuram and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.



Crl.MP.No.10154 of 2024 in Crl.A.No.598 of 2022

For Petitioner : Mr.K.Santhana Raja
For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.M.SUBRAMANIAM, J]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed and conviction made in S.C.No.120 of 2015 on 10.06.2022 passed by the Additional Sessions Court, Kanchipuram and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

2. The petitioner in the above Sessions Case, was convicted and sentenced for the offences under Sections 341, 342 and 302 IPC and sentenced to one month simple imprisonment under Section 341 IPC and 3rd accused/appellant one month simple Imprisonment under Section 342 IPC and further A3 was convicted under Section 302 IPC r/w 34 IPC and sentenced to life imprisonment and to pay a fine of Rs.25,000/- default of fine 6 months simple imprisonment in S.C.No.120 of 2015 dated



Crl.MP.No.10154 of 2024 in Crl.A.No.598 of 2022

10.06.2022 passed by the Additional Sessions Court, Kanchipuram.

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

4.The learned counsel for the petitioner submitted that PW1 is not an eye witness to the occurrence and she could not attribute any specific overtact against the accused. The petitioner is no way connected with the occurrence. There is no independent evidence to support the prosecution case. Hence, seeks to suspend the sentence.

5.The learned Additional Public Prosecutor appearing for the State submitted that, PW1/ the wife of the deceased deposed in her cross examination about the accused persons. Therefore, trial Court rightly found guilty of the accused and sentenced him. There is no merit in this case and thus, pleaded for dismissal of this petition.



Crl.MP.No.10154 of 2024 in Crl.A.No.598 of 2022

6. We have considered submissions of the learned counsel for the petitioner and the learned Additional Public Prosecutor.

7. The prosecution case rests on the evidence of PW1/wife of the deceased. During the cross examination, PW1/wife of the deceased has not stated the name of the petitioner/Rajkumar in her evidence, which is a solitary evidence and it was wholly relied by the trial Court for imposing conviction. That being so, we are inclined to consider the petition.

8. Considering the above facts and circumstances and also considering the period of incarceration of the petitioner and the appeal is not likely to be taken up in the near future, we are inclined to grant the relief of suspension of sentence to the petitioner herein.

9. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment is **suspended** and the sentence imposed on the petitioner is suspended on the following conditions:



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Crl.MP.No.10154 of 2024 in Crl.A.No.598 of 2022

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two independent sureties, each for a like sum to the satisfaction of the learned Additional Sessions Court, Kanchipuram.
- (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; and
- (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.

[S.M.S., J.] [V.S.G., J.]
05.09.2024

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Crl.MP.No.10154 of 2024 in Crl.A.No.598 of 2022

S.M.SUBRAMANIAM, J.
AND
V.SIVAGNANAM, J.

gd

To

- 1.The Additional Sessions Court, Kanchipuram.
- 2.The Inspector of Police,
T1, Kundrathur Police Station,
Kanchipuram District.
- 3.The Superintendent of Prisons,
Central Prisons,
Puzhal.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

Crl.MP.No.10154 of 2024 in Crl.A.No.598 of 2022

05.09.2024

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