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Crl.M.P.No.12338 of 2024 in Crl.R.C.No.1470 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.Nos.12338 and 12340 of 2024
in Crl.R.C.No.1470 of 2024

Saravana Kumar
S/o.Kandha Samy

... Petitioner

Vs.

State rep by

The Sub Inspector of Police,
Vellore Police Station,
Crime No.460 of 2019.
Namakkal District

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 397 and 401 of Cr.P.C to suspend the sentence imposed upon the petitioner in C.A.No.61 of 2022 passed by the Sessions Judge, Special Court for Scheduled Castes and Scheduled Tribes, Namakkal dated 31.05.2024, confirming the sentence imposed by the Judicial Magistrate, Paramathi in the judgment dated 21.07.2020 made in C.C.No.82 of 2022 and enlarge the petitioner on bail, pending disposal of the above criminal appeal.

For Petitioner : Mr.M.Ganesh

For Respondent : Mr.A.Damodaran
Addl.Public Prosecutor



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ORDER

This criminal miscellaneous petition has been filed to suspend the sentence of imprisonment imposed by the learned Sessions Judge, Special Court for Scheduled Castes and Scheduled Tribes, Namakkal in C.A.No.61 of 2022 dated 31.05.2024, confirming the sentence imposed by the Judicial Magistrate, Paramathi in the judgment dated 21.07.2022 made in C.C.No.82 of 2020.

2.The conviction and sentence imposed on the petitioner in C.C.No.82 of 2020 is as follows:

<i>U/s 323 IPC</i>	<i>Fine of Rs.1000/-, i/d to undergo 3 months simple imprisonment</i>
<i>U/s 326 IPC</i>	<i>One year simple imprisonment with fine of Rs.1000/-, i/d to undergo 3 months simple imprisonment.</i>

3. The petitioner preferred an appeal in C.A.No.61 of 2022 and the learned Sessions Judge by judgment dated 31.05.2024 dismissed the appeal, confirming the conviction and sentence imposed by the trial Court.

4. The case projected against the petitioner is that when the defacto complainant/P.W.1 on 10.09.2019 at about 6.30 a.m was working in the cow shed, at that time, the petitioner, due to some previous enmity with regard to



land dispute, abused her and taken a stone from near by place and assaulted on her face, due to which, she lost her tooth. At that time, when P.W.3/mother-in-law of the P.W.1 intervened, she was also pushed and assaulted. P.W.6 and P.W.7, neighbours, witnessed the assault and thereafter taken the injured to hospital. P.W.4 is the doctor, who treated P.W.3 and P.W.5 is the doctor who treated P.W.1.

5. On the complaint (Ex.P.1) given by P.W.1., P.W.8/ Sub Inspector of Police, received the complaint and registered a case in Cr.No.460 of 2019 for the offence punishable under Sections 294(b), 323, 326 and 506(i) IPC. . P.W.8 visited the scene of occurrence, prepared Observation Mahazars (Ex.P.2 and Ex.P.3), examined the witnesses present, recorded their statement and on conclusion of investigation, filed the charge sheet before the Trial Court.

6. During trial, on the side of the prosecution, eight witnesses examined as PW1 to PW8 and eight documents marked as Exs.P1 to P8. On the side of the defence, no one was examined and no document was marked. One stone was marked as Ex.M.O.1 On conclusion of trial, the trial Court convicted the petitioner as stated above.



7. The contention of the petitioner is that the petitioner has been falsely implicated in this case. In fact the petitioner was assaulted by P.W.3 and he sustained injuries on his head which fact has been completely suppressed and earlier there was a civil dispute between the petitioner and P.W.1 and a suit in O.S.No.114 of 2020 was filed which ended in favour of the petitioner. Thereafter, the petitioner sold his property to one Sekar. Despite civil suit ending in favour of the petitioner, P.Ws.1 and 3 were encroaching upon Sekar's property and giving trouble. Since the petitioner intervened and warned them, he has been falsely implicated. It is the further contention of the petitioner that the petitioner's injury has been recorded during remand on 10.09.2019 by the Magistrate, but, the investigating officer during his cross examination, had suppressed the injury sustained by the petitioner and also the treatment taken by the petitioner in the hospital. The petitioner was admitted in the hospital at the time of alleged occurrence and this fact has not been considered by the trial court and despite at the first instance on 10.09.2019, the injury sustained by the petitioner has been recorded. It is further submitted that the petitioner has now surrendered before the trial court on 10.09.2024 and a proof has also been produced to that effect.

8. Learned Additional Public Prosecutor has filed counter and submits



that P.W.1 and P.W.3 are the injured witnesses. P.W.1 was hit by the petitioner with stone and she sustained injuries and lost her tooth and it was witnessed by P.W.3. P.W.4 and P.W.5 are the doctors who treated P.W.1. The trial Court by its judgment in CC No.82 of 2020 dated 21.07.2022 convicted the petitioner and sentenced as above and aggrieved over the same, the petitioner/accused preferred an appeal and the Principal Sessions Judge, Special Court for SC/ST Act Cases, Namakkal dismissed the appeal by judgment dated 31.05.2024 in CA No.61 of 2022. As against the judgment, the petitioner has filed the present revision.

9. This Court considered the rival submissions and perused the materials available on record.

10. In the remand report, there is a clear recording about the injuries sustained in frontal and parietal region of head and it is blood injury. The investigating officer, for the reasons best known to him, suppressed this fact and pleaded ignorance about the injury sustained by the petitioner. P.W.8 Inspector of police arrested the accused on 10.09.2019 at 11.30 a.m at Vellore Road near Mohanur Road junction which would clearly amount to withholding the evidence under Section 114(g) of Indian Evidence Act, 1872 and this fact



has not been considered by the trial court as well as the first appellate Court.

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11. Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and he is ordered to be enlarged on bail, on condition that he 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 Judicial Magistrate, Paramathi.

12. Further, the petitioner shall appear before the Judicial Magistrate, Paramathi at 10.30 a.m., on the first working day of every English Calender month until the disposal of the criminal appeal and if he is not able to appear before the Trial Court on that 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 on the same month in lieu of the date of his absence as directed by the Trial Court. Accordingly, this Miscellaneous Petition is ordered.

13. Since the petitioner surrendered before the Court, Crl.M.P.No.12340 of 2024 is dismissed.



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To

- 1.The Sessions Judge,
Special Court for SC/ST Cases,
Namakkal.
- 2.The Deputy Superintendent of Police,
Namakkal
- 3.The Sub Inspector of Police,
Vellore Police Station,
Namakkal.
4. The Central Prison,
Salem.
- 5.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

SR

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