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*Crl.M.P.Nos.12823 & 12824 of 2024
in Crl.R.C.No.1538 of 2024*

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M. NIRMAL KUMAR, J.

These Criminal Miscellaneous Petitions have been filed by the petitioner, seeking to suspend the sentence imposed in Crl.A.No.21 of 2023 dated 19.07.2024 passed by the learned Additional Sessions Judge, Krishnagiri modifying the judgment in S.C.No.75 of 2022 dated 19.07.2023 passed by the learned Assistant Sessions Judge, Denkanikottai, release the petitioner on bail pending disposal of above Criminal revision and to exempt the petitioner from surrendering before the Lower Court.

2.The petitioner/accused in S.C.No.75 of 2022 was convicted by the trial Court by judgment dated 19.07.2023 for offence under Section 307 I.P.C. (2 counts) and sentenced to undergo seven years rigorous imprisonment for each count and to pay fine of Rs.5,000/- each count, in default to undergo three months simple imprisonment. Aggrieved against the conviction, he preferred an appeal in C.A.No.21 of 2023 before the learned Additional Sessions Judge, Krishnagiri. The learned Sessions Judge, by judgment dated 19.07.2024, partly allowed the appeal modifying the



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conviction of the petitioner from offence under Section 307 I.P.C. to 324 I.P.C. and sentenced to undergo three years rigorous imprisonment for each count, against which, he filed a revision before this Court in Crl.R.C.No.1538 of 2024 along with the instant miscellaneous petitions seeking suspension of sentence, exemption from surrendering and bail.

3.The contention of the petitioner is that there was a matrimonial dispute between the petitioner and his wife/PW3. The petitioner is stated to be a vagabond not supporting the family members. On 26.07.2021, the petitioner picked up a quarrel with PW3 and the same was informed by PW3 to their parents. When PW3's parents along with PW1 and PW2, who are PW3's uncle and another relative, came and questioned the petitioner, the petitioner said to have stabbed them with knife and thereafter they were rushed to hospital, took treatment, for which, the petitioner was arrested and faced prosecution.

4.During trial, on the side of the prosecution, PW1 to PW12 examined, Exs.P1 to P10 marked and M.O.1 marked. On the side of the defence no witnesses examined and no documents marked. On conclusion of the trial, the



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Trial Court on the evidence of witnesses and the materials produced, had convicted the petitioner as stated above and the Lower Appellate Court modified the same.

5.The learned counsel for petitioner submitted that now the petitioner and PW3 have joined and residing together with two children, who are aged about 3 years and 5 years. The petitioner is the sole bread winner of the family and if he is detained in prison, his family would be suffered and children would be put to untold hardships. He further submitted that the Lower Appellate Court on the appraisal of the trial Court judgment found the conviction to be excessive. In this case, the recovery of M.O.1/knife is highly doubtful. Further the version given by witnesses PW1 to PW3 are contradictory. In any event, the conviction of the petitioner under Section 324 of I.P.C. may not be sustainable, in view of the other evidences. Hence, prays for granting suspension of sentence to the petitioner.

6.The learned Additional Public Prosecutor submitted that petitioner stabbed PW1 and PW2. PW1 sustained serious injury. In fact his intestine came out, thereafter they were rushed to the hospital. PW10/Doctor, who



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treated PW1 and PW2, confirmed the injury sustained by PW1 and PW2. PW3 deposed clearly about PW1 and PW2 coming in support of her, questioning the petitioner, at that time the petitioner stabbing PW1 and PW2. He further submitted that in this case 12 witnesses examined and 10 exhibits marked and M.O.1 produced. All the witnesses confirmed the case of the prosecution. The trial Court convicted the petitioner for offence under Section 307 I.P.C. and sentenced to undergo seven years rigorous imprisonment. Thereafter, in the appeal, the Sessions Court considering the relationship, modified the conviction to Section 324 I.P.C. He further submitted that in this case the petitioner and PW3 have joined together and they are having two children, who are aged about 3 and 5 years.

7.Considering the submissions made and on perusal of the materials available on record, it is seen that the case of the prosecution is that after initial treatment the injured PW1 and PW2 were referred to Government Head Quarters Hospital, Krishnagiri. But no one from Krishnagiri hospital examined to show what was the treatment given and the nature of injury. Exs.P5 and P6 admittedly produced by PW10, further finding that petitioner and PW3/husband and wife rejoined and they have two children of aged about 3 and 5 years. Hence, this Court is inclined to grant suspension of



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sentence to the petitioner.

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8.In view of the above, petitioner is exempted from surrendering, substantive sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the revision 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 trial Court.

9.Further, the petitioner shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, until the disposal of the criminal revision 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 in lieu of the date of his absence as directed by the Trial Court.



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10. Accordingly, these Criminal Miscellaneous Petitions are ordered.

13.09.2024
(2/2)

Index : Yes/No
Internet : Yes/No
Speaking order/Non speaking order
Neutral citation : Yes/No
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To

- 1.The Inspector of Police,
Kelamangalam Police Station,
Krishnagiri District.
- 2.The Additional Sessions Judge,
Krishnagiri.
- 3.The Assistant Sessions Judge,
Denkanikottai.
- 4.The Public Prosecutor,
High Court, Madras.

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