



Crl.MP.No.17043 of 2023
in Crl.A.No.1193 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

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in Crl.A.No.1193 of 2023

1. Devendran
2. Prabakaran

...Petitioners/Appellants

Vs.

The State by
The Inspector of Police,
Vikramangalam Police Station,
Ariyalur District
(Crime No.146/2017)

... Respondent

Prayer :- Criminal Miscellaneous Petition filed under Section 379(1) of Cr.P.C. to enlarge the petitioners on bail by suspending the sentence imposed on them in S.C. No.149 of 2019 on the file of the Additional District & Sessions Judge, Ariyalur, dated 18.08.2023 pending disposal of the above appeal.

For Petitioners : Mr.B. Kumarasamy
For Respondent : Mr.E. Raj Thilak
Additional Public Prosecutor



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ORDER

(Order of the Court was delivered by **SUNDER MOHAN, J.**)

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioners (A1 & A2), by the learned Additional District & Sessions Judge, Ariyalur, in S.C. No. 149 of 2019, by the judgment dated 18.08.2023, and to enlarge them on bail pending disposal of the above Criminal Appeal.

2.The learned Additional District & Sessions Judge, Ariyalur, in S.C.No.149 of 2019, convicted the petitioners herein/A1& A2 and sentenced them as follows:

Accused	Offence	Sentence Imposed
A1	304 IPC r/w 135(1) (a) Electricity Act 2003	To undergo life imprisonment (each count) and to pay a fine of Rs.5,000/- for each offence, in default, to undergo one year Simple imprisonment.
A2	304 IPC r/w 135(1) (a) Electricity Act 2003	To undergo life imprisonment (each count) and to pay a fine of Rs.5,000/- for each offence, in default, to undergo one year Simple imprisonment.



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3.Challenging the above conviction and sentence, the petitioners/A1 &A2, has filed the above Criminal Appeal and they seek suspension of sentence and bail in the present miscellaneous petition.

4. Heard Mr.B. Kumarasamy, learned Counsel appearing for the petitioners and Mr.E. Raj Thilak, learned Additional Public Prosecutor, appearing for the respondent/State.

5. It is the case of the prosecution that P.W.1/defacto complainant and the accused own adjacent lands; that the accused, in order to prevent wild boar from entering into their farm land, had illegally taken electricity connection by putting up a hook in the live electric wire from the electric pole situate in the defacto complainant's agricultural land and created a illegal electrical fencing; that when P.W.1/defacto complainant's grand father and his father went to their farm land for taking the grass bundles, they came in contact with the live wire on 07.09.2017 and were electrocuted and succumbed to the electrocution.



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6. Learned counsel for the petitioners submitted that the prosecution had not established that the land, where the alleged electric fencing was put up, belonged to the petitioners; that there is no evidence to show that the petitioners had taken electricity illegally from the electric pole situate in the defacto complainant's land; and that P.W.1 had not supported the prosecution case and had admitted that he had not seen the accused taking electricity from the electric pole.

7. Learned Additional Public Prosecutor, per contra, submitted that the prosecution had established its case beyond reasonable doubts; that the land around which the electric fence was put up was occupied by the accused though it did not belong to them and the circumstances established that the petitioners had taken connection from the electric pole situate in the defacto complainant's land; and that therefore there is no infirmity in the findings of the Trial Court.

8. We perused the records. P.W.1 to P.W.3 are closely related to each other and have spoken about the fact that there was an electric fence around the land



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occupied by the petitioners. P.W.2 and P.W.3, however, are not aware as to who connected the electric wire to the fence. P.W.1, in the cross examination, also would admit that he is not personally aware as to whether it was the petitioners who had connected the wire to create an electric fence in their land. In such circumstances we are prima facie of this view that the prosecution has not established conclusively that the present petitioners are guilty of the offences charged against them. In view of the above, we are of the view that the petitioners have a fair chance of succeeding in the appeal and since this appeal is not likely to be taken up for hearing in the near future, we are inclined to suspend the sentence on the following conditions:

- (i) The petitioners shall execute a bond for a sum of Rs.25,000/-, each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Jeyamkondam.
- (ii) The petitioners 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;



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(iii) The petitioners 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 and if they are not able to appear before the trial Court on any day, they 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 their absence, as directed by the trial Court.

(M.S.R., J.) (S.M., J.)
08.01.2024

bga

Internet : Yes

Index : Yes / No

Note to office : Issue Order Copy on 09.01.2024
Upload the order copy forthwith

To

1. Judicial Magistrate No.I, Jeyamkondam.

2.The Inspector of Police,
Vikramangalam Police Station,
Ariyalur District

3.The Superintendent,
Central Prison, Trichy

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4.The Public Prosecutor,
High Court, Madras.

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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

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