



WEB COPY



CrLMP.No.14878/2023 in CrL.A.No.1016/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.02.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrLMP.No.14878/2023 in CrL.A.No.1016/2023

A.Radhakrishnan

.. Petitioner/sole Accused

Versus

State rep.by

The Inspector of Police,
Cuddalore NT Police Station,
Cuddalore District.
(Cr.No.1235/2020)

.. Respondent/Complainant

Prayer:- Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed in S.C.No.246 of 2021 dated 18.07.2023 on the file of the learned I Additional District and Sessions Judge, Cuddalore and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.B.Mohan

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by Mr.C.Aravind



WEB COPY



CrLMP.No.14878/2023 in CrL.A.No.1016/2023

ORDER

[Order of the Court was made by SUNDER MOHAN, J]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment and order dated 18.07.2023 passed in S.C.No.246 of 2021 on the file of the learned I Additional District and Sessions Judge, Cuddalore, and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner, who is the sole accused in the above Sessions Case, was convicted and sentenced as follows:

Offence under Section	Sentence imposed
294 (b) IPC	To pay a fine of Rs.1000/- in default to undergo rigorous imprisonment for one month.
302 IPC	To undergo life imprisonment with fine of Rs.5,000/- in default to undergo rigorous simple imprisonment for one year.
Sentences are ordered to run concurrently.	

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



WEB COPY

4. Heard the learned counsel for the petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the respondent/State.

5. (i) It is the case of the prosecution that on 14.11.2020 while the deceased and his wife were going in their two-wheeler, in front of a public toilet, the accused/petitioner herein blocked their way and prevented the deceased to proceed further; that the accused/petitioner abused the deceased in filthy language; that when his wife (PW1) questioned the said conduct, the accused/petitioner abused her also; that thereafter he kicked on the chest of the deceased, as a result, the deceased fell down and sustained injury; that the deceased was taken for treatment and died on 23.11.2020.

6. The learned counsel for the petitioner/accused submitted that prosecution case which rests on the evidence of PW1 and PW2 is false; that the incident did not take place in the manner projected by the prosecution; that in any case, the deceased did not die due to the injuries alleged to have been caused by the accused/petitioner, but died due to an infection. Hence, the learned counsel prayed that the sentence imposed on the petitioner may



be suspended.

WEB COPY

7. The learned Additional Public Prosecutor *per contra* submitted that the prosecution has established that the deceased caused the injuries with an intention to cause death and therefore, the trial Court is right in holding that the accused/petitioner is guilty of the offence under Section 302 of the IPC. Hence, he prayed for dismissal of the petition.

8. On perusal of the record, this Court finds that the occurrence is said to have been taken place due to an altercation between the deceased and the accused/petitioner. The Accident Register [Ex.P4] reveals that the deceased sustained a contusion over occipital region measuring 3x2 cms. Admittedly no weapon was used by the accused/petitioner. That apart PW9, the postmortem Doctor, in the final opinion has stated that the deceased died due to an infection, and ruled out the possibility of death due to the injury.

9. Therefore, considering the above facts, the nature of injury, the *overt act* attributed to the accused/petitioner and the fact that the appeal is not likely to be taken up for final hearing in the near future, we are of the considered view that it is a fit case to grant the relief of suspension of



sentence to the petitioner herein.

WEB COPY

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

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned I Additional District and Sessions Judge, Cuddalore;
- (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 and if he is not able to appear before the trial Court on any 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.

[MSRJ] [SMJ]
13.02.2024

ars

Internet: Yes



CrLMP.No.14878/2023 in CrL.A.No.1016/2023

Issue order copy by 14.02.2024
Upload the order forthwith.

WEB COPY



WEB COPY



Crl.MP.No.14878/2023 in Crl.A.No.1016/2023

M.S.RAMESH, J

and

SUNDER MOHAN, J

ars

To

- 1.The I Additional District and Sessions Judge,
Cuddalore.
- 2.The Inspector of Police,
Cuddalore NT Police Station,
Cuddalore District.
- 3.The Superintendent of Prisons,
Central Prison, Cuddalore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

Crl.MP.No.14878/2023 in Crl.A.No.1016/2023



WEB COPY



CrLMP.No.14878/2023 in CrL.A.No.1016/2023

13.02.2024