



Crl.M.P.No.12941 of 2024 in Crl.A.No.1162 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.12941 of 2024
in Crl.A.No.1162 of 2024

Mahendiran,
Son on Selvendiran

... Petitioner

Vs.

State Rep by,
The Inspector of Police,
Thirunallar Police Station,
Karaikal.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 389(1) of Code of Criminal Procedure and 430 of BNSS, to suspend the sentence imposed on the petitioner by judgment dated 12.08.2024 in Sessions Case in S.C.No.8 of 2021 on the file of the learned Sessions Judge, Karaikal, convicting the appellant for the alleged offence under Section 304(ii) of IPC and sentencing the appellant to undergo Rigorous Imprisonment for seven years and to pay a fine of Rs.10,000/- in default to undergo simple imprisonment for a period of six months pending disposal of the main appeal.



Crl.M.P.No.12941 of 2024 in Crl.A.No.1162 of 2024

For Petitioner : Mr.T.Saikrishnan
For Respondent : Mr.K.S.Mohandass
Public Prosecutor, Puducherry

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed in S.C.No.8 of 2021, dated 12.08.2024 by the learned Sessions Judge, Karaikal and to enlarge the petitioner on bail pending disposal of the appeal.

2.It is the case of the prosecution that the petitioner had proposed to marry the daughter of the deceased and was constantly harassing her; that the deceased had thereafter gave a complaint; that aggrieved by the said act conduct of the deceased, on 11.09.2020 at about 09.00 p.m, the petitioner came to the house of the deceased in a two wheeler and raised the accelerator of the two wheeler in which he came and caused disturbance to the deceased family; and that when the deceased started to go to the Police Station, the petitioner attacked the deceased with hands and pushed him, as a result of which, the deceased fell down and sustained head injury and died.



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3.The petitioner was convicted for offence under Section 304(ii) IPC and was sentenced to undergo seven years Rigorous imprisonment and was ordered to pay a fine of Rs.10,000/- and in default of payment of fine to undergo simple imprisonment for six months *vide* judgment, dated 12.08.2024 made in S.C.No.8 of 2021.

4.Heard Mr.T.Saikrishnan, learned counsel for the petitioner and Mr.K.S.Mohandass, Public Prosecutor, Puducherry appearing for the respondent/State.

5.The learned counsel appearing for the petitioner would submit that the evidence of the eye witnesses cannot be believed as they have all been tutored and it is contrary to the first statement given by PW1/wife of the deceased to the Doctor wherein she had complained against one Velayutham who is said to have attacked the deceased; and that the respondent Police had suppressed the said complaint and filed a false case against the petitioner.



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6.The learned Public Prosecutor, Puducherry *per contra* would submit that the conduct of the petitioner is such that, no indulgence can be shown to him; that merely because a complaint was lodged against him, he had attacked the deceased. He would further submit that the eye witnesses who are independent, have cogently deposed about the occurrence which has been rightly believed by the Trial Court; and that therefore prayed for dismissal of the petition for suspension of sentence. He would further submit that if the petitioner is released on bail, he would further cause annoyance to the family of the deceased.

7.The judgment of the Trial Court would reveal that PW1 had admitted in the cross examination that in her first statement given in the hospital, she had accused one Velayutham, however the said complaint was not placed before the Court and that there is no explanation from the prosecution as to what happened to the said complaint. Therefore, this Court finds force in the submissions made by the learned counsel for the petitioner that the genesis and origin of the occurrence have been



suppressed by the prosecution, which requires consideration in the appeal.

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8.In view of the above, this Court is of the view that the petitioner can be released on bail and considering the apprehension expressed by the learned Public Prosecutor, Puducherry, he can be directed to stay away from Karaikal for some time.

9.Accordingly, this criminal miscellaneous petition is allowed and till the disposal of the Criminal Appeal, the sentence imposed upon the petitioner/accused by the Trial Court, is suspended on the following conditions:

(i)The petitioner 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 learned Sessions Judge, Karaikal;

(ii)The petitioner shall stay at Yanam and report before the Inspector of Police, Yanam Police Station everyday at 10.30 a.m., until further orders, except on the date when he has to appear before the Trial Court;



Crl.M.P.No.12941 of 2024 in Crl.A.No.1162 of 2024

WEB COPY

(iii)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;

(iv)The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until further orders 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.

12.11.2024

vv2

To

- 1.The Sessions Judge,
Karaikal.
- 2.The Inspector of Police,
Thirunallar Police Station,
Karaikal.



Crl.M.P.No.12941 of 2024 in Crl.A.No.1162 of 2024

3.The Central Prison,
Puducherry.

4.The Public Prosecutor,
Madras High Court.



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Crl.M.P.No.12941 of 2024 in Crl.A.No.1162 of 2024

SUNDER MOHAN, J.

vv2

Crl.M.P.No.12941 of 2024 in
Crl.A.No.1162 of 2024

12.11.2024