



Crl.M.P.No.14558 of 2024 in Crl.R.C.No.1763 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.14558 of 2024
in Crl.R.C.No.1763 of 2024

Sivakumar

... Petitioner
Vs.

State of Rep. by its
The Inspector of Police,
Kadamparai Police Station,
Coimbatore.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 438 (1) of BNSS, to suspend the sentence imposed in Crl.A.No.399 of 2019 dated 18.04.2024 on the file of the learned IV Additional District-cum-Sessions Judge, Coimbatore, by confirming the Judgment of conviction dated 11.11.2019 passed in C.C.No.46 of 2013 by the learned District Munsif cum Judicial Magistrate, Valparai, till the disposal of above Criminal Revision Revision.

For Petitioner : Mrs.T.Kalpana Devi

For Respondent : Mr.V.J.Priyadarsana
Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner/accused by judgment dated



11.11.2019 passed in C.C.No.46 of 2013 by the learned District Munsif cum Judicial Magistrate, Valparai, confirmed by judgment dated 18.04.2024 in C.A.No.399 of 2019 by the learned IV Additional District cum Sessions Judge, Coimbatore, pending disposal of the Criminal Revision Case.

2.It is the case of the prosecution that the petitioner on 24.11.2012 at about 10.00 pm., had driven the bus in a rash and negligent manner and hit a vehicle on the road side and thereafter, the compound wall, run into a deep slope of 200 feet and caused the death of about eight persons and injuries to twenty four passengers.

3.The trial Court convicted and sentenced the petitioner as follows:

Offence under Section	Sentence imposed
304 (A) of IPC (8 counts)	For each count to undergo SI for one year and to pay a fine of Rs.1,000/- in default to undergo SI for two months.
338 of IPC (22 counts)	For each count to pay a fine of Rs.1,000/- in default to undergo SI for two months.
337 of IPC (19 counts)	For each count to pay a fine of Rs.500/- in default to undergo SI for one month.
279 of IPC	To pay a fine of Rs.1,000/- in default to undergo SI for one month.



On appeal, the appellate Court had confirmed the above sentence.

WEB COPY

4.Heard Mrs.T.Kalpana Devi, learned counsel for the petitioner and Mr.V.J.Priyadarsana, learned Government Advocate (Crl. Side) appearing for the respondent/State.

5.The learned counsel appearing for the petitioner would submit that the evidence of the Inspector [PW54] would show that the investigating officer had not ascertained as to whether the bus had any mechanical defect; that his evidence would further show that the witnesses had not stated before him that the petitioner had driven the vehicle in a rash and negligent manner; that there was a curve in the road; that the allegation of rashness and negligence has been made only because several people died and were injured; and that therefore the petitioner would be entitled for suspension of sentence.

6.The learned Government Advocate (Crl. Side) *per contra* would submit that Court below had convicted the petitioner on the basis of the evidence and the prosecution had examined as many as 54 witnesses to



prove its case. Therefore, the petitioner has not made out a ground for suspension of sentence.

7. This Court is of the view that the points raised by the learned counsel for the petitioner require consideration and this Court has to examine whether mental states such as rashness or negligence has been established in this revision. The petitioner has surrendered pursuant to the judgment of the appellate Court on 12.11.2024.

8.Considering the above, the submissions of the learned counsel for the petitioner and the fact that the petitioner has raised substantial grounds and there are arguable points in the revision which is not likely to be taken up in the near future, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

9.Accordingly, this criminal miscellaneous petition stands allowed and the sentence imposed on the petitioner is suspended and the petitioner is ordered to be released on bail on the following conditions:



Crl.M.P.No.14558 of 2024 in Crl.R.C.No.1763 of 2024

(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 District Munsif cum Judicial Magistrate, Valparai;

(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 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.

15.11.2024

ars

Note to office:

Issue order copy on 19.11.2024

Upload the order copy forthwith.



WEB COPY



Crl.M.P.No.14558 of 2024 in Crl.R.C.No.1763 of 2024



WEB COPY



Crl.M.P.No.14558 of 2024 in Crl.R.C.No.1763 of 2024

SUNDER MOHAN, J.

ars

To

1. The IV Additional District and Sessions Court,
Coimbatore.
2. The District Munsif cum Judicial Magistrate,
Valparai.
3. The Inspector of Police,
Kadamparai Police Station,
Coimbatore.
4. The Superintendent of Prisons,
Central Prison, Coimbatore.
5. The Public Prosecutor,
Madras High Court.

Crl.M.P.No.14558 of 2024
in Crl.R.C.No.1763 of 2024

15.11.2024