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Crl.MP.No.16537/2023 in Crl.A.No.154/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.03.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

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1.Nehru

2.Sadayandi

3.Settu

4.Sagadevan

5.Venkadesan

6.Sakthivel

.. Petitioners

Versus

State by

The Inspector of Police,

Arni Taluk Police Station.

(Cr.No.23 of 2013)

.. Respondent

Prayer:-Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed on the petitioners by the learned Additional District and Sessions Judge (FTC) Arni, Thiruvannamalai



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District in S.C.No.3 of 2018 by judgment dated 30.01.2023 and enlarge the petitioners on bail pending disposal of the above appeal.

For Petitioner : Mr.Anantha Narayanan
Senior Counsel for
Mr.K.Balu

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

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 petitioners vide judgement and order dated 30.01.2023 passed in S.C.No.3 of 2018 on the file of the learned Additional District and Sessions Judge (FTC) Arni, Thiruvannamalai District, and to enlarge the petitioner on bail pending disposal of the appeal.



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2. The case of the prosecution is that, the petitioners' lands were situated adjacent to the land of the deceased; that there were disputes between the petitioners and the deceased with regard to measurement of the lands; that there were several criminal cases pending against each other; and that due to the said enmity, the petitioners had caused the death of the deceased on the night of 12.01.2013.

3. Heard the learned counsel for the petitioners [A1 to A6] and Mr.E.Raj Thilak, the learned Additional Public Prosecutor appearing for the respondent/State.

4.The learned counsel for the petitioners submitted that the case, which is based on circumstantial evidence, has not been conclusively established by the prosecution; that the motive has also not been proved; that the circumstances relied upon by the prosecution are that P.W.2 witnessed the petitioners threatening her father on 12.01.2013 at 04.30 p.m.; that P.W.1 and P.W.6, along with P.W.2, saw the petitioners returning to their houses at 10.00 p.m., on 12.01.2013, walking in a nervous manner, and



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that those circumstances do not conclusively establish the guilt of the petitioners and prayed for suspension of sentence.

5.Learned Additional Public Prosecutor, per contra, submitted that motive was spoken to by P.W.1 and P.W.2 and the other circumstances have been proved and prayed for dismissal of the petition for suspension of sentence.

6.We have carefully considered the rival submissions. It is the case of the prosecution that P.W.2 witnessed the threat given to her father by all the six petitioners on 12.01.2013 at 04.30 p.m. The other circumstances relied is that P.W.1 and P.W.6, along with P.W.2, saw the petitioners walking in a nervous manner at about 10.00 p.m., on the same day. *Prima facie*, we are of the view that P.W.2's evidence does not appear to be a probable version. That apart, we find from the evidence adduced that the prosecution has failed to establish the circumstances which points out only to the guilt of the accused.



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7. Considering the above facts and since the petitioners are in custody from 30.01.2023, and the appeal is not likely to be taken up in the near future, we are inclined to grant the relief of suspension of sentence to the petitioners herein.

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

- (i) The petitioners shall execute a bond for a sum of Rs.25,000/- each, with two independent sureties, each for a like sum to the satisfaction of the learned Additional District Judge (FTC), Arni, Thiruvannamalai District;
- (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; and



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(iii)The petitioners shall appear before the trial Court on every Monday and Thursday 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.

[M.S.R.,J.] [S.M.,J.]
18.03.2024

Anu

Issue order copy by 20.03.2024
Upload the order copy forthwith.

Internet: Yes

To

1.The Additional District Judge (FTC),
Arni, Thiruvannamalai District

2.The Inspector of Police,
Arni Taluk Police Station.

3.The Superintendent of Prison,
Central Prison, Vellore.

4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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M.S.RAMESH, J

and

SUNDER MOHAN, J

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