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CrL.MP.No.17418/2023 in CrL.A.No.1157/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.01.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrL.MP.No.17418/2023 in CrL.A.No.1157/2022

Vadivelu

.. Petitioner

Vs.

The State rep by,
Inspector of Police,
Deevattipatti Police Station,
Salem District
(Cr.No.490 of 2011)

.. Respondent

Prayer:-Civil Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed on the petitioner by the learned II Additional District and Sessions Judge, Salem dated 06.09.2022 made in S.C.No.301 of 2012 and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

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

ORDER



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[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 judgement and order dated 06.09.2022 passed in S.C.No.301 of 2012 on the file of the learned II Additional District and Sessions Judge, Salem, and to enlarge the petitioner on bail pending disposal of the appeal.

2. It is the case of prosecution that the defacto complainant, one Indhirani, who is a resident of Nachinampatti, is the wife of the deceased, Narayanan. A2 is the son of A1, and A3 is the wife of A1, while A4 is the wife of A2. A1 to A4 are adjacent landowners of the deceased. There were frequent quarrels between them as the accused alleged that for about 20 years, the deceased had encroached about 25 cents of their land, and civil suits were pending in lower Courts. While so, due to such enmity on 08.08.2011 at midnight, the accused trespassed into the land of Indhirani and committed murder, and thereby A1 to A4 had committed an offence punishable under Section 447 IPC.



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3. At the time of occurrence, A3 and A4 held the witness, Indhirani, while A2 held the deceased, prevented them from moving, which is an offence punishable under Section 342 IPC. A1 then repeatedly cut the deceased on the face, clavicular region, left forearm, right forearm, right thigh and mid parietal region of head with a sickle. As a result of which, the deceased died on the way to the Government hospital due to multiple injuries. Thereby, A1 had committed murder, which is an offence punishable under Section 302 IPC, and that A2 to A4 had committed an offence punishable under Section 302 read with 34 IPC.

4. Heard the learned counsel for the petitioner [A2] and Mr.E.Raj Thilak, the learned Additional Public Prosecutor appearing for the respondent/State.

5. The learned counsel for the petitioner [A2] submitted that the sentence imposed on A3 and A4 in this case was suspended vide order of this Court dated 19.12.2022 on the ground that there are arguably points in



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the appeal. The learned counsel further submitted that even according to the evidence of P.W.1, the overt act is attributed only as against A1 by causing death of the deceased by a sickle.

6. Taking into consideration the fact that the sentences against A3 and A4 is suspended, and the fact that it is the prosecution case that A1 alone attacked the deceased with a sickle; that the petitioner is in custody since 06.09.2022, and the appeal is not likely to be taken up for final hearing in the near future, we are inclined to grant the relief of suspension of sentence to the petitioner herein.

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

(i) The petitioner shall execute a bond for a sum of Rs.25,000/-,



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with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned II Additional District and Sessions Judge, Salem;

(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.

[M.S.R.,J.] [S.M.,J.]
11.01.2024

Anu

Issue order copy by .01.2024
Upload the order copy forthwith.
Internet: Yes



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M.S.RAMESH, J

and

SUNDER MOHAN, J

Anu

To

- 1.The II Additional District and Sessions Judge, Salem.
- 2.The Inspector of Police,
Deevattipatti Police Station,
Salem District
- 3.The Superintendent of Prison,
Central Jail, Coimbatore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

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