



Crl.M.P.Nos.14421, 14585 & 14684 of 2024
in
Crl.A.Nos.1289, 1297 & 1305 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.Nos.14421, 14585 & 14684 of 2024
in
Crl.A.Nos.1289, 1297 & 1305 of 2024

Chinnaiyan
S/o.Rajangam

... Petitioners
in Crl.M.P.No.14421/2024

1. Pandian
S/o.Rajamanickam
2. Rengasamy
S/o.Govindasamy
3. Suresh
S/o.Natarajan

... Petitioners
in Crl.M.P.No.14585/2024

Kumar
S/o.Kanthasamy

... petitioner
in Crl.M.P.No.14684/2024

Vs.

The State Represented by
The Inspector of Police,
Sirkali Police Station
Mayiladuthurai District
Crime No.649 of 2015

... Respondent
in all Crl.MPs



Crl.M.P.Nos.14421, 14585 & 14684 of 2024
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PRAYER:

Criminal Miscellaneous Petition No.14421 of 2024 filed under Section 389 Cr.P.C praying to suspend the sentence imposed on the petitioner in S.C.No.63 of 2023 dated 15.10.2024 on the file of the District and Sessions Judge, Mayiladuthurai and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

Criminal Miscellaneous Petition No.14585 of 2024 filed under Section 430(1) read with 483 of Bharatiya Nagarik Suraksha Sanhita, praying to suspend the sentence made in S.C.No.63 of 2023 dated 15.10.2024 on the file of the District and Sessions Judge, Mayiladuthurai and enlarge the petitioners on bail pending disposal of the Criminal Appeal in pursuance to the Crime No.649 of 2015 on the file of the respondent police.

Criminal Miscellaneous Petition No.14684 of 2024 filed under Section 430(1) of Bharatiya Nagarik Suraksha Sanhita, 2023 praying to suspend the sentence imposed on the petitioner made in S.C.No.63 of 2023 passed by the learned District and Sessions Judge, Mayiladuthurai dated 15.10.2024 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner
in Crl.M.P.No.14421 of 2024 : Mr.R.Vivekananthan



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For Petitioners

in Crl.M.P.No.14585 of 2024 : Mr.J.Jawahar

For Petitioner

in Crl.M.P.No.14684 of 2024 : Mr.M.N.Balakrishnan
for Mr.M.Vinoth

For Respondent in all Crl.MPs :

Mr.R.Vinoth Raja
Government Advocate (Crl.Side)

COMMON ORDER

The petitioner in Crl.M.P.No.14421 of 2024 is accused No.5, the petitioners in Crl.M.P.No.14585 of 2024 is accused Nos.2, 7 and 8 and the petitioners in Crl.M.P.No.14684 of 2024 are accused No.3 in S.C.No. 63 of 2023 on the file of the District and Sessions Court, Mayiladuthurai. The trial Court by judgment dated 15.10.2024 convicted and sentenced the petitioners/accused is as follows :

Accused No./Name	Section	Conviction/Sentence
A5-Chinnaiyan	Under Section 148 IPC	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for a period of one month.
	Under Section 3(1) TNPPDL Act	To undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment



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Accused No./Name	Section	Conviction/Sentence
		for a period of one month
A2/Pandian and A7/Rengasamy	Under Section 148 IPC Under Section 506(ii) IPC and 3(1) TNPPDL Act	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for a period of one month. To undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for a period of one month
A8/Suresh	Under Section 148 IPC Under Section 3(1) TNPPDL Act	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for a period of one month. To undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for a period of one month
A3/Kumar	Under Section 148 IPC Under Section 3(1) TNPPDL Act	To undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for a period of one month. To undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for a period of one month

2. The contention of the petitioners/accused is that a civil case has been
given a criminal colour, the petitioners have been falsely prosecuted and



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convicted by the trial Court. Even in the civil case in O.S.No.154 of 2015 before the District Munsif Court, Sirkali, the de-facto complainant had failed. The de-facto complainant is not the owner of the property. Originally, the property belongs to Singarathopu Sattanathar Kovil Matrum Dharmapura Adeenam. However, the said Adeenam is the complainant in this case.

3. The further contention of the petitioners is that the petitioners herein are the resident of the area. On 16.08.2015 at 8.30 p.m., the de-facto complainant/P.W.1 placed some concrete structures obstructing the pathway used by the petitioners and others. Hence, the petitioners have assembled and requested P.W.1 not to construct compound wall and that they had removed the obstruction which has been projected as damages caused to the public property. During the removal of the pathway, there was a wordy quarrel and scuffle between the petitioners and the de-facto complainant and that the de-facto complainant sustained injuries and taken to the Government Hospital, Sirkali for treatment and information also sent to the respondent/Police and a case has been registered against the petitioners.



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4. On receipt of the information, the respondent/police lodged a case against the petitioners. The injuries sustained by the defacto-complainant are simple in nature. The trial Court had convicted and sentenced the petitioners/Accused as stated above. Further, M.O.1 to M.O.5 in this case are Spade, Crow Bar, Iron Road, Wooden log and Broken Cement Concrete, which are all commonly used in construction work and for removal of any structures which cannot be stated to be deadly weapons, used by the petitioners to attack the de-facto complainant. In this case, P.Ws.1 to 3 are projected as injured witnesses and their evidences are contradictory to each other. Further, a civil dispute led to a wordy quarrel and exchange of words. However, the trial Court failed to consider that a civil suit in O.S.No.154 of 2015 filed by the de-facto complainant against the some of the petitioners is dismissed. The appeal filed against the dismissal was also not entertained. In such circumstances conviction of the petitioners/accused is not proper and that, the de-facto complainant is not a owner of the said property.

5. Learned Government Advocate (Crl.Side) by referring to the counter affidavits, submitted that the de-facto complainant had lodged a complaint



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stating that on 16.08.2015 at about 8.30 p.m. P.Ws.1 to 3 were standing in front of the hut in which Pannerselvam is residing and spoken with each other. Due to that enmity, all the accused have formed an unlawful assembly armed with deadly weapons and have trespassed into the property of the de-facto complainant and destructed the compound wall. When the same was questioned, there was abuse threatening and they have also attacked them with Spade handle and iron road and other instruments with them. The injured was taken to the Government Hospital, Sirkali. Thereafter, P.W.8, who received the complaint and registered the F.I.R and P.W.9 took up investigation and visited the scene of occurrence and prepared Observation Mahazar and Rough Sketch in the presence of witnesses and also examined the witnesses and recorded their statements and arrested the accused. Further M.O.1 to M.O.5 recovered. P.W.9 took up further investigation and on conclusion of the investigation, charge sheet was filed before the trial Court.

6. During the trial, on the side of the prosecution P.W.1 to P.W.9 were examined and marked Ex.P.1 to Ex.P.13. On the side of accused, D.W.1 was examined. Material objects were marked as M.O.1 to M.O.5. On conclusion of



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the trial, the trial Court convicted and sentenced the petitioners as stated above.

7. Heard the learned counsel on either side and perused the materials available on record.

8. Considering the submissions made on either side and on a perusal of the materials on record, it is seen that there is a civil dispute between the petitioners and the de-facto complainant and others. The case is that a common pathway, obstructed by placing concrete structure, which was requested by the petitioners earlier to be removed, but the de-facto complainant failed to do so, thereafter for having the pathway the concrete structure was removed, due to which wordy altercation and exchange of words. Admittedly, the property belongs to Singarathopu Sattanathar Koil Matrum Dharmapura Adeenam and none from Adeenam has been examined. It is seen that a civil suit between the de-facto complainant and some of the accused came to be dismissed. Primarily the civil dispute got magnified and a



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criminal case filed. In any event, the conviction of the petitioners needs to be re-considered.

9. Accordingly, the substantive sentence of imprisonment imposed on the petitioners alone is suspended till the disposal of the above criminal appeals and they are ordered to be enlarged on bail, on condition that each of the petitioners shall execute a bond for a sum of Rs.5,000/- (Rupees five thousand only) with two sureties each, for a like sum to the satisfaction of the trial Court.

10. Further, petitioners/accused shall appear before the Trial Court on the first working day, once in three months at 10.30 a.m. until the disposal of these Criminal Appeals and if they are not able to appear before the Trial Court on that day, they shall make necessary arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in the same month, in lieu of the date of their absence as directed by the Trial Court.



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24.10.2024

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Note : Issue Order Copy on 25.10.2024.

To

- 1.The District and Sessions Judge,
Mayiladuthurai.
2. The Superintendent,
Central Prison
Thiruchirapalli.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Inspector of Police,
Sirkazhi Police Station
Mayiladuthurai District.



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M.NIRMAL KUMAR, J.

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24.10.2024

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