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Crl.M.P.Nos.15763 & 15765 of 2024 in Crl.R.C.No.1928 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.Nos.15763 & 15765 of 2024
in Crl.R.C.No.1928 of 2024

1. Pandiyan
2. Durai
3. Vadivel ... Petitioners/Accused 1 to 3

Vs.

Chandrasekaran ... Respondent

PRAYER in Crl.M.P.No.15763 of 2024: Criminal Miscellaneous Petition filed under Section 430 of BNSS, to suspend the sentence imposed in Crl.A.No.10 of 2022 dated 02.09.2024 on the file of the learned District Judge, Mayiladuthurai by confirming the Judgment dated 06.04.2022 passed in C.C.No.66 of 2020 by the learned Judicial Magistrate No.2, Mayiladuthurai, till the disposal of above Criminal Revision Revision.

PRAYER in Crl.M.P.No.15765 of 2024: Criminal Miscellaneous Petition filed under Section 528 of BNSS, to exempt the petitioners from surrender before the learned District Judge, Mayiladuthurai, in Crl.A.No.10 of 2022 dated 02.09.2024 confirming the conviction passed by the Judicial Magistrate Court No.2, Mayiladuthurai in C.C.No.66 of



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2020 dated 06.04.2022.

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For Petitioner : Mr.K.R.Shivakumar

COMMON ORDER

These Criminal Miscellaneous Petitions have been filed seeking to suspend the sentence imposed on the petitioners/A1 to A3 by judgment dated 06.04.2022 passed in C.C.No.66 of 2020 by the learned Judicial Magistrate No.2, Mayiladuthurai and confirmed by the learned District Judge, Mayiladuthurai vide Judgment dated 02.09.2024 in Crl.A.No.10 of 2022 and enlarge the petitioners on bail and to exempt the petitioners from surrendering before the trial Court, pending disposal of the above revision.

2. The case of respondent is that the petitioners and the defacto complainant had disputes with regard to ownership of a property and a suit is pending; and that on 27.06.2016, when the respondent tried to measure the disputed land, the petitioners along with their henchmen obstructed the surveyor of the revenue authorities and abused the respondent in filthy language.



3. On the complaint by the respondent/de facto complainant, the petitioners were convicted by the trial Court for the offence under Section 294(b) of the IPC and each of the petitioners were sentenced to undergo imprisonment for one week and to pay a fine of Rs.3,000/- in default to undergo simple imprisonment for one week. On appeal, the said conviction and sentence was confirmed by the lower Appellate Court.

4. The learned counsel for the petitioners would submit that the allegations would not constitute the offence under Section 294(b) of the IPC, as the alleged words said to have been uttered by the petitioners, are not obscene and therefore, the sentence imposed on the petitioners may be suspended.

5. Though notice sent to the respondent has been served and his name is printed in the cause list, there is no representation on behalf of the respondent.

6. Heard the learned counsel for the petitioners and perused the materials available on record.



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7. This Court finds that the submission made by the learned counsel for the petitioners needs deliberation. Hence, considering the fact that there are arguable points in the above revision and that the revision is not likely to be taken up in the near future and also the period of sentence imposed upon the petitioners/accused, this Court is inclined to suspend the sentence imposed on the petitioners/accused and exempt them from surrendering before the trial Court.

8. Accordingly, these criminal miscellaneous petitions stand **allowed**. The sentence of imprisonment imposed on the petitioners/A1 to A3 is suspended and they are exempted from surrendering before the trial court, on the following conditions till the disposal of the above Criminal Revision:

- (i) Each of the petitioners shall execute a bond for a sum of Rs.10,000/-, with two sureties, each for a like sum to the satisfaction of the learned District Judge, Mayiladuthurai;
- (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



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identity; and

(iii) The petitioners 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 they are not able to appear before the trial Court on any day, they 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 their absence, as directed by the trial Court.

18.12.2024

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To

1. The District Judge,
Mayiladuthurai.

2. The Judicial Magistrate No.2,
Mayiladuthurai.

3. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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(2/2)

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