



Crl.MP.No.17991/2023

in

Crl.A.No.1008/2022

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.17991/2023

in

Crl.A.No.1008/2022

1. Karthi @ Karthikeyan

2. Jagadeesh @ Jagadeesan

3. Balaji

...Petitioners/appellants

Versus

The State rep. by
The Inspector of Police,
Mettur Police Station,
Crime No. 42 of 2018

...Respondent

Prayer:- Civil Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed in S.C.No.197 of 2019 dated 28.07.2022 on the file of the Additional District Court/Additional Fast Track



Crl.MP.No.17991/2023

in

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WEB COPY Court, Mettur and enlarge the petitioners on bail pending disposal of the above Criminal Appeal.

For Petitioners : Mr.N.Manoharan

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

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 by judgment and order dated 28.07.2022 passed in S.C.No.197 of 2019 on the file of the Additional District Court/Additional Fast Track Court, Mettur and enlarge the petitioners on bail pending disposal of the above appeal.

2. The petitioners, who are arrayed as accused 1 to 3 in the above Sessions Case, were convicted and sentenced as follows:



Crl.MP.No.17991/2023

in

Crl.A.No.1008/2022

Accused No.	Offence under Section	Sentence imposed
A1	302 of IPC	To undergo Life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo rigorous imprisonment for a period of one year.
A2	302 of IPC	To undergo Life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo rigorous imprisonment for a period of one year.
A3	302 of IPC	To undergo Life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo rigorous imprisonment for a period of one year.
The sentences imposed are ordered to run concurrently.		

3. Challenging the above conviction and sentence, the petitioners have filed the above Criminal Appeal and they seek suspension of sentence and bail in the present petition.

4. Heard Mr.N.Manoharan, the learned counsel for the petitioners and Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the respondent/State.

5. The case of the prosecution is that the deceased had illegal intimacy with the wife of A1 and enraged by the said fact, A1 along with three other accused came in two two-wheelers, waylaid the deceased while, he was



Crl.MP.No.17991/2023

in

Crl.A.No.1008/2022

WEB COPY

travelling in a two wheeler and attacked him with knives and caused his death.

(ii). It is further the case of prosecution that P.W.11/mother of deceased and P.W.2/sister of the deceased witnessed the occurrence.

6. Mr.N.Manoharan, the learned counsel for the petitioners submitted that P.W.1 had admitted that she had not seen the accused prior to the occurrence and further admitted that all the accused came in two two-wheelers and were wearing helmets; that therefore, the complaint which contains the names of A1 and A2 along with their father's name is fabricated and in any case, the learned counsel submitted that there is no identification parade conducted for identifying the accused. Hence, the learned counsel prayed that the sentence imposed on the petitioners may be suspended.

7. Mr.E.Raj Thilak, the learned Additional Public Prosecutor, *per contra*, submitted that P.W.1 was aware of the fact that there was a dispute between A1 and the deceased with regard to the motive namely that



Crl.MP.No.17991/2023

in

Crl.A.No.1008/2022

WEB COPY

the deceased was having illegal intimacy with his wife and therefore, it cannot be said that P.W.1 is a stranger to A1.

8. We have carefully considered the rival submissions on either side.

9. From the evidence on record, we find that P.W.1 knew A1 even prior to the occurrence. However, there is no evidence to show that she knew the other accused. No Identification Parade was conducted to identify the accused. Further, P.W.1 and P.W.2 have admitted that the pillion riders namely A3 and A4 were wearing helmets at the time of the occurrence.

10. Considering the above facts, this Court is of the view that the petitioners 2 and 3/accused 2 and 3 have a fair chance of success in the appeal. Further, as the petitioners 2 and 3/A2 and A3 are in custody from 28.07.2022 and the appeal is not likely to be taken up in the near future, we are inclined to suspend the sentences in so far as the petitioners 2 and 3 are concerned.



Crl.MP.No.17991/2023

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Crl.A.No.1008/2022

WEB COPY

11. The learned counsel for the petitioners made an endorsement withdrawing this petition in respect of the first petitioner/A1. **Accordingly, this petition is dismissed as withdrawn in respect of the first petitioner/A1.**

12. In so far as petitioners 2 and 3/A2 and A3, this criminal miscellaneous petition stands **allowed** and the sentences imposed on the petitioners 2 and 3/A2 and A3, are suspended on the following conditions:

- (i) Each of the petitioners 2 and 3/A2 and A3 shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Additional District Judge, Fast Track Court, Mettur;
- (ii) The petitioners 2 and 3/A2 and A3 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



Crl.MP.No.17991/2023

in

Crl.A.No.1008/2022

WEB COPY

(iii)The petitioners 2 and 3/A2 and A3 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.

[MSRJ] [SMJ]

01.02.2024

dk

Internet: Yes

Issue order copy by 02.02.2024

Upload the order forthwith.

To

1.The Additional District Court/Additional Fast Track Court,
Mettur

2.The Inspector of Police,
Mettur Police Station.

3.The Superintendent of Prisons,
Central Prison, Coimbatore.

4.The Public Prosecutor,



Crl.MP.No.17991/2023

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WEB COPY

Madras High Court,
Chennai – 600 104.



WEB COPY



Crl.MP.No.17991/2023

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Crl.MP.No.17991/2023

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