



*Crl.M.P.No.17327 of 2024
in Crl.R.C.No.2212 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.17327 of 2024
in
Crl.R.C.No.2212 of 2024

Manickam

...Petitioner/Appellant

Vs.

State Represented by
The Inspector of Police,
Valapady Police Station,
Salem.

... Respondent/Complainant

PRAYER: Criminal Miscellaneous Petition filed under Section 438(1) of BNSS to suspend the sentence imposed in C.C.No.175 of 2017 on the file learned District Munsif cum Judicial Magistrate Valapady dated 14.07.2023 confirmed by the judgment made in C.A.No.132 of 2023 (on the file of learned II Additional District Judge, Salem) dated 25.09.2024.

For Petitioner : Mr.S.T.Bharath Gowtham

For Respondent : Mr.S.Udaya Kumar,
Government Advocate (Crl.Side)



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ORDER

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This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence imposed on the revision petitioner/accused in C.C.No.175 of 2027 dated 14.07.2023 on the file of the learned District Munsif cum Judicial Magistrate Valapady and confirmed in C.A.No.132 of 2023 dated 25.09.2024 by the learned II Additional District Judge, Salem and enlarge the petitioner on bail.

2. The case of the prosecution is that on 24.04.2015, due to prior dispute with regard to a pathway, when the accused allowed his cows to graze in the pathway, the witnesses questioned the accused, for which, the petitioner/accused is said to have attacked the witnesses with stones and threatened them with dire consequences.

3. The petitioner was convicted by the trial Court for the offence under Section 326 of the IPC and sentenced to undergo three years of simple imprisonment and also directed to pay a fine of Rs.2000/- in default simple imprisonment for one month. On appeal, the said conviction and sentence was confirmed by the lower Appellate Court.



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4. Mr.S.T.Bharath Gowthan, the learned counsel for the petitioner would submit that on account of a prior property dispute, the instant case has been filed; and that there are several arguable points in the above revision which requires consideration and the petitioner had surrendered before the learned Magistrate on 18.12.2024. The learned counsel further submitted that all the other accused have been acquitted and the petitioner ought not to have been convicted on the basis of the very same evidence.

5. Heard Mr.S.Udaya Kumar, the learned Government Advocate (Crl.Side) for the respondent and he has confirmed the fact that the petitioner has surrendered before the Court below.

6. Heard both sides.

7. Considering the submissions made by the learned counsel for the petitioner that there were arguable points in the above revision, which requires consideration and the fact that the petitioner had surrendered on 18.12.2024, this Court is inclined to grant the relief of suspension of sentence imposed on the petitioner till the disposal of the above Criminal



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Revision on the following conditions:

(a) The petitioner is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only), with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.VI-Salem;

(b) The petitioner shall appear before the Trial Court on the first working day of a month at 10.30 a.m., until the disposal of the revision and if he is not able to appear before the Trial Court on that 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.

(c) In the event of failure on satisfying the above conditions, this order would stand automatically cancelled.



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8. Accordingly, this Criminal Miscellaneous Petition is ordered.

19.12.2024
(2/3)

dk

Note: Issue order copy on 20.12.2024



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To

- 1.The District Munsif cum Judicial Magistrate Valapady.
- 2.The II Additional District Judge, Salem
- 3.The Superintendent of Prison,
Central Prison, Salem.
- 4.The Inspector of Police,
Valapady Police Station,
- 5.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

dk

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SUNDER MOHAN,J

Today, the case was listed under the caption 'For Being Mentioned" since the Jurisdictional Magistrate was wrongly mentioned in the order dated 19.12.2024 in Crl.M.P.No.17327 of 2024 in Crl.R.C.No.2212 of 2024. Hence, the condition no.6(a) reads as follows:

*(a) The petitioner is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only), with two sureties, each for a like sum to the satisfaction of the learned **District Munsif cum Judicial Magistrate, Valapady.***

2. Therefore the Registry is directed to issue order copy after carrying out the above correction. The other contents of the order of this Court dated 19.12.2024 shall remain unaltered.

21.12.2024

dk

Note : Issue Order Copy today.



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SUNDER MOHAN,J.

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