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CrLMP.No.18518/2023 in CrL.A.No.1325/2023

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.18518/2023 in CrL.A.No.1325/2023

1. K.Sathish

2. Neela

3. Rajeshwari

.. Petitioners/Accused 1 to 3

Vs.

State rep.by

The Inspector of Police

Thirunavalur Police Station,

Villupuram District.

(Cr.No.361 of 2016)

.. Respondent

Prayer:- Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed in S.C.No.283 of 2017 dated 31.10.2023 on the file of the learned Additional District and Sessions Judge, Fast Track Court, Villupuram and enlarge the petitioners on bail pending disposal of the above Criminal Appeal.

For Petitioners : Mr.C.D.Johnson

For Respondent : Mr.E.Raj Thilak

Additional Public Prosecutor

ORDER

[Order of the Court was made by SUNDER MOHAN, J]



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This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioners by judgment and order dated 31.10.2023 passed in SC No.283 of 2017 on the file of the learned Additional District and Sessions Judge, Fast Track Court, Villupuram and to enlarge the petitioners on bail pending disposal of the appeal.

2. The petitioners, who are arrayed as A1 to A3 in the above Sessions Case, was convicted and sentenced as follows:

<i>Accused No.</i>	<i>Offence under Section</i>	<i>Sentence imposed</i>
A1	302 IPC	To undergo life imprisonment and to pay a fine of Rs.1,000/- in default to undergo RI for one year.
	147 IPC	To undergo RI for six months
	323 IPC	To undergo imprisonment for six months
	449 IPC	To undergo RI for three years and to pay a fine of Rs.1000/-, in default to undergo RI for one month.
	3(1) of TNPPDL Act	To undergo RI for 18 months and to pay a fine of Rs.1000/-, in default to undergo RI for one month.
A2 & A3	302 IPC	Each of them to undergo life imprisonment and to pay a fine of Rs.1,000/- in default to undergo RI for one year.
	147 IPC	Each of them to undergo RI for six months
	323 IPC	Each of them to undergo imprisonment for six months
	449 IPC	Each of them to undergo RI for three years and to pay a fine of Rs.1000/-, in default to



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<i>Accused No.</i>	<i>Offence under Section</i>	<i>Sentence imposed</i>
		undergo RI for one month.
The sentences were ordered to run concurrently.		



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

4. Heard 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 A2 is the wife of one Kaliyaperumal; that the deceased was her close friend; that suspecting that the wife of the deceased one Suganthi had illegal intimacy with her husband Kaliyaperumal, A2 and her children confronted the said Suganthi; that the said Suganthi informed her husband Subramani; that Subramani went and questioned the accused and the accused in turn went to the house of Suganthi and Subramani and attacked both of them; and that the said Subramani succumbed to the injuries. Hence, a case was registered in Crime No.361 of 2017, against the petitioners/accused, for the offences under Sections 147, 148, 294(b), 323, 324, 448, 427, 307 and 302 of IPC, Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2022



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and Section 3 of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992.

6. The learned counsel for the petitioners/accused submitted that the deceased and PW1-injured eyewitness, were taken to the hospital at 2.50p.m. The deceased died two hours later at 5.10 p.m. The injuries noted by the Doctor-PW10 who made entries in the Accident Register and by the Postmortem Doctor-PW8 in the postmortem certificate, are totally different. PW10 also found that the deceased could have died due to cardiac arrest. The evidence suggests that there was a scuffle and the accused did not intend to cause the death of the deceased.

7. The learned Additional Public Prosecutor submitted that the postmortem report and the evidence of the postmortem doctor suggests that the deceased died due to homicidal violence and therefore, the appellants are not entitled for suspension of sentence. Thus, he prayed for dismissal of this petition.

8. We have carefully considered the rival submissions and perused the



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records.

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9. As pointed out by the learned counsel for the petitioners/accused we find from the evidence of PW10, the Doctor who first treated the deceased that the deceased complained of pain on his right side cheek and left shoulder. No other external injuries were noted on the deceased. PW10 himself suspected that the death could have been caused by cardiac arrest. However, we find that during the postmortem several other injuries were noted. This has not been explained by the prosecution. Further, on an overall reading of the evidence, we find that there was a scuffle and there was no premeditation on the part of the accused to cause death of the deceased. The accused had not used any lethal weapons. We however, make it clear that the above observations are only an expression of our *prima facie* view.

10. Considering the above facts and also taking into consideration the fact that the appeal is not likely to be taken up for final hearing in the near future, we are of the view that it is a fit case to grant the relief of suspension



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of sentence to the petitioners herein.

11. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment is **suspended** and the sentence imposed on the petitioners/A1 to A3, is suspended on the following conditions:

- (i) Each of the petitioners 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 and Sessions Judge, Fast Track Court, Villupuram;
- (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 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.

ars
Speaking/Non-Speaking order

01.02.2024

[MSRJ]

[SMJ]



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Neutral Citation: Yes/No
Issue order copy by 02.02.2024
Upload the order forthwith.

M.S.RAMESH, J

and

SUNDER MOHAN, J

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To

- 1.The Additional District and Sessions Judge,
Fast Track Court, Villupuram.
- 2.The Inspector of Police,
Thirunavalur Police Station,
Villupuram District.
- 3.The Superintendent of Prisons,
Central Prison, Cuddalore.
4. The Superintendent of Prisons,
Women Wing, Central Prison, Vellore.
- 5.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

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