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Crl.MP.No.18902/2023 in Crl.A.No.277/2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.18902/2023 in Crl.A.No.277/2020

Tamilarasu

.. Petitioner/A2

Versus

State rep.by

The Inspector of Police

Kanthikuppam Police Station,

Krishnagiri District.

(Cr.No.227 of 2013)

.. Respondent

Prayer:- Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed in S.C.No.118 of 2015 dated 27.01.2020 on the file of the learned Additional District and Sessions Judge, Krishnagiri and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.G.Viswanathan

for Mr.G.Punniakoti

For Respondent : Mr.E.Raj Thilak



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Additional Public Prosecutor
assisted by Mr.C.Aravind

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 petitioner by judgment and order dated 27.01.2020 passed in SC No.118 of 2015 on the file of the learned Additional District and Sessions Judge, Krishnagiri, and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner, who is arrayed as A2 in the above Sessions Case, was convicted and sentenced as follows:

Offence under Section	Sentence imposed
302 IPC	To undergo life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo rigorous imprisonment for one year.
392 IPC	To undergo rigorous imprisonment for 14 years and to pay a fine of Rs.10,000/-, in default to undergo rigorous imprisonment for six months.
Sentences are ordered to run concurrently.	

3. Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal and he is seeking suspension of sentence



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and bail in the present petition.

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

5. The case of the prosecution is that the deceased was working as a driver of the Truck bearing Registration No.1109 TN23 BQ1024; that he was transporting steel pipes weighing 6 tons worth about Rs.5,00,000/- from a Company by name Bhushan Power and Steel Limited, Bangalore, to Ambattur; that while transporting the same he stopped his vehicle at M/s.Sree Priya Carriers Company, Hosur, to get the consignment receipts; that the A1 along with the petitioner/A2 introduced himself as the employee of M/s. Sree Priya Carriers Company and asked the deceased to drop both the accused persons at Bargur; that they got into the vehicle and on the same day about 10 p.m. the accused persons asked the deceased to stop the vehicle at a High School on the Krishnagiri-Vaniyampadi Road and assaulted the deceased by using a knife and caused his death. It is the further case of the prosecution that P.W.1, the Village Administrative Officer, on



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coming to know that the dead body of the deceased was found near the school, had given a complaint to the police, pursuant to which, P.W.18 took up investigation; that on 20.11.2013 when P.W.19 along with the other police officials were conducting a routine vehicle check up, the A1 along with the petitioner/A2 came in a Hero Honda bike and on enquiry it was revealed that they had caused the murder of the deceased and sold the steel pipes in the truck to A3.

6. This Court by order dated 02.01.2024 in Crl.M.P.No.16439 of 2023 in Crl.A.No.1118 of 2023 had suspended the sentence in respect of A1 on certain conditions, by making the following observations.

“8. We perused the relevant evidence and the judgment. Admittedly the appellant and the other accused were arrested four months after the alleged occurrence when the police were carrying out a routine vehicle check up. Apart from the recovery made from the shop of A3, there is no evidence connecting the appellant with the crime. The prosecution had not also established through any acceptable evidence that the appellant had sold the steel pipes to A3. That apart, we also find that it is the P.W.21's version that 12 tons of steel pipes were consigned in the truck. However, this is contrary to the prosecution's case. The



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prosecution has not explained as to what happened to the remaining 6 tons. Further, we find that another consignment note was prepared by P.W.8 (Manager) to show that as if only 6 tons of steel pipes were consigned, which was marked as D.W.1. P.W.8 admitted that the said consignment note was prepared after the seizure was made from A3 shop. This throws a serious doubt in the prosecution case. The identification of the accused by the witnesses who had allegedly seen the appellant in the truck at the time of occurrence is also highly doubtful. Therefore, for the above reasons, we find that the appellant has a fair chance of succeeding in the appeal.....”

7. The observations made above would squarely apply to the petitioner herein as well, who is arrayed as A2. Accordingly, since we have already suspended the sentence in respect of A1, we are inclined to grant the relief of suspension of sentence to the petitioner herein/A2 also on the same conditions imposed on A1 in Crl.M.P.No.16439 of 2023 in Crl.A.No.1118 of 2023 dated 02.01.2024.

8. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner/A2 is suspended on the following conditions:



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(i) The petitioner 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, District Court, Krishnagiri.

(ii) The petitioner 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;

(iii) The petitioner 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 he is not able to appear before the trial Court on any 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.

[MSRJ] [SMJ]
07.02.2024

ars

Internet: Yes

Issue order copy by 08.02.2024
Upload the order forthwith.



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M.S.RAMESH, J

and

SUNDER MOHAN, J

ars

To

- 1.The Additional District and Sessions Judge,
Krishnagiri
- 2.The Inspector of Police,
Kanthikuppam Police Station,
Krishnagiri District.
- 3.The Superintendent of Prisons,
Central Prison, Vellore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

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