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CrL.MP.No.19333/2023 in CrL.A.No.1501/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.02.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

**CrL.MP.No.19333/2023 in CrL.A.No.1501/2023**

Monisha @ Nisha

.. Petitioner/A5

Versus

State rep.by

The Inspector of Police,

H-6, R.K.Nagar, Police Station,

Korukupettai, Chennai-21.

.. Respondent/Complainant

Prayer:- Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed in S.C.No.332 of 2021 dated 30.10.2023 on the file of the learned I Additional Sessions Judge, City Civil Court, Chennai and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.G.M.Gokulram

For Respondent : Mr.E.Raj Thilak



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Additional Public Prosecutor  
assisted by Mr.C.Aravind



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## **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 30.10.2023 passed in S.C.No.332 of 2021 on the file of the learned I Additional Sessions Judge, City Civil Court, Chennai, and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner, who is arrayed as A5 in the above Sessions Case, was convicted and sentenced as follows:

| Offence under Section    | Sentence imposed                                                                                                                       |
|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| 147 IPC                  | To undergo rigorous imprisonment for two years along with fine of Rs.1,000/- in default to undergo simple imprisonment for six months. |
| 120B r/w 302 IPC         | To undergo rigorous imprisonment for life long with fine of Rs.10,000/- in default to undergo simple imprisonment for two years.       |
| 302 r/w 120B r/w 149 IPC | To undergo rigorous imprisonment for life long with fine of Rs.10,000/- in default to undergo simple imprisonment for two years.       |
| 294(b) r/w 149 IPC       | To undergo simple imprisonment for one month along with fine of Rs.500/- in default to undergo                                         |



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|                                            |                                                                                                                                          |
|--------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------|
|                                            | simple imprisonment for fifteen days.                                                                                                    |
| 506(ii) r/w 149 IPC                        | To undergo rigorous imprisonment for three years along with fine of Rs.3,500/- in default to undergo simple 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 she is seeking suspension of sentence 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. (i) It is the case of the prosecution that A1 and PW7 were in a romantic relationship; that the deceased, who was the son of PW1 had illegal relationship with PW7, which enraged A1 and his friends viz., A2 to A4; that due to enmity, on 10.07.2021, at about 14.30 hours, all the accused including the petitioner herein/A5 unlawfully assembled in front of the building where the deceased lived and attacked him with knives; and that



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the petitioner/A5, who is the wife of A2 instigated the other accused.

6. The learned counsel for the petitioner/A5 submitted that though PW1 in his deposition had stated that he knew the petitioner herein/A5, in in the earliest version i.e., in the FIR, he has stated that along with A1 to A4, there was an unknown lady, who instigated the accused, which would show that PW1 had made material improvement, which would falsify his version. Hence, the learned counsel prayed that the sentence imposed on the petitioner may be suspended.

7. The learned Additional Public Prosecutor per contra submitted that the evidence of PW1 and PW3 corroborate each other to prove the presence of A5/petitioner herein and hence, prayed for dismissal of the petition.

8. This Court on perusal of the records finds that in the earliest version i.e., in the FIR, PW1 had stated that an unknown person has instigated the other persons viz., A1 to A4 to cause the injuries on the deceased. However, in his evidence, PW1 had referred to the name of the petitioner herein/A5 and he would also state that he knew petitioner



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herein/A5 even before the occurrence.

9. In view of the inconsistent versions of PW1, the presence of the petitioner herein/A5 in the occurrence place and her role in the alleged offence becomes doubtful. Hence, we are of the view that the petitioner/A5 has a fair chance of success in the appeal. Further, it is reported that the petitioner was in advanced stage of pregnancy at the time of occurrence i.e., on 10.07.2021 and a female child was born to her on 21.07.2021.

10. For the aforesaid reasons and 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 considered view that it is a fit case to grant the relief of suspension of sentence to the petitioner herein.

11. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment is **suspended** on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.25,000/-,



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with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned I Additional Sessions Judge, City Civil Court, Chennai;

(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; and

(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 she is not able to appear before the trial Court on any day, she 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 her absence, as directed by the trial Court.

[MSRJ] [SMJ]  
12.02.2024

ars

Internet: Yes

Issue order copy by 13.02.2024  
Upload the order forthwith.



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To

- 1.The I Additional Sessions Judge,  
City Civil Court, Chennai.
- 2.The Inspector of Police,  
H-6, R.K.Nagar, Police Station,  
Korukupettai, Chennai-21.
- 3.The Superintendent of Prisons,  
Special Prison for Women, Central Prison,  
Puzhal.
- 4.The Public Prosecutor,  
Madras High Court,  
Chennai – 600 104.



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M.S.RAMESH, J

and

SUNDER MOHAN, J

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