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Crl.M.P.Nos.16236 & 16237 of 2024
in Crl.A.No.532 of 2022
and Crl.M.P.No.16950 of 2024
in R.T.No.1 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2024

CORAM:

**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN**

Crl.M.P.Nos.16236 & 16237 of 2024
in Crl.A.No.532 of 2022
and Crl.M.P.No.16950 of 2024
in R.T.No.1 of 2022

Dinesh Kumar

... Petitioner in Crl.M.P.Nos.16236
& 16237/2024

The State rep. by,
Inspector of Police,
Attur Town Police Station,
Salem District.
(Cr.No.547/2018)

... Petitioner in Crl.M.P.No.16950/2024

Vs.

The State rep. by,
Inspector of Police,
Attur Town Police Station,
Salem District.
(Cr.No.547/2018)

... Respondent in Crl.M.P.Nos.16236
& 16237/2024

Dinesh Kumar

... Respondent in Crl.M.P.No.16950/2024



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Prayer in Crl.MP.No.16236/2024: Criminal Miscellaneous Petitions filed under Section 391 Cr.P.C. r/w. 432 of BNSS, seeking to permit the petitioner to adduce additional evidence by examining the petitioner medically to ascertain the mental condition of the petitioner on the date of commission of the offence on 22.10.2018 at 7.00 P.M. in the above Criminal Appeal No.532 of 2022 on the file of this Court.

Prayer in Crl.MP.No.16237/2024: Criminal Miscellaneous Petitions filed under Section 391 Cr.P.C. r/w. 432 of BNSS, seeking to permit the petitioner to adduce additional evidence by directing the prison authorities namely the Superintendent of Central Prison, Salem to produce the medical records of the petitioner before this Court to ascertain the mental condition of the petitioner/appellant in the above Criminal Appeal No.532 of 2022 on the file of this Court.

Prayer in Crl.MP.No.16950/2024: Criminal Miscellaneous Petitions filed under Section 391 Cr.P.C. r/w. 432 of BNSS, seeking to permit the petitioner/prosecution to adduce additional evidence by producing the petition mentioned additional evidences, which are available in the court records to mark it as exhibits in the above RT.No.1 of 2022 on the file of this Court.



Crl.M.P.Nos.16236 & 16237 of 2024
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(in Crl.M.P.Nos.16236 & 16237/2024)

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.Hasan Mohamed Jinna,
State Public Prosecutor
assisted by Mr.R.Muniyapparaj,
Additional Public Prosecutor

(in Crl.M.P.No.16950/2024)

For Petitioner : Mr.Hasan Mohamed Jinna,
State Public Prosecutor
assisted by Mr.R.Muniyapparaj,
Additional Public Prosecutor

For Respondent : Mr.R.Sankarasubbu

COMMON ORDER

*(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)*

Crl.M.P.Nos.16236 & 16237 of 2024 are filed by the accused seeking to adduce additional evidence by examining him medically to ascertain his mental condition on the date of commission and to direct the prison authorities namely the Superintendent of Central Prison, Salem to produce the medical records of the accused/petitioner.



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and Crl.M.P.No.16950 of 2024
in R.T.No.1 of 2022

2. The accused was convicted for the offence under Section 302 of IPC and was sentenced to death imprisonment and fine of Rs.5,000/- in default to undergo 3 months S.I.; for an offence under Section 450 of IPC, he was sentenced to 10 years and fine of Rs.5,000/- in default 3 months S.I.; for an offence under Section 294(b) of IPC, he was sentenced to 3 months R.I. and fine of Rs.1000/- in default 1 month S.I.; for an offence under Section 12 r/w. 11(1v) of POCSO Act, he was sentenced to 3 years R.I. and fine of Rs.10,000/- in default 3 months S.I.; for an offence under Section 302 r/w. 3(2)(v) of SC & ST (POA) Act, he was sentenced to life imprisonment and fine of Rs.5,000/- in default 3 months S.I. by the Special Court under POCSO Act, Salem in Spl.S.C.No.204 of 2019 dated 26.04.2022.

3. Mr.R.Sankarasubbu, learned counsel appearing for the petitioner/accused in Crl.M.P.Nos.16236 & 16237 of 2024 would submit that on the date of occurrence i.e. on 22.10.2018 at about 7.30 P.M., the accused was suffering from mental illness and he was not in a position to understand the consequences of his own acts and hence, he has not



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WEB COPY

committed any offence as he was mentally unsound and could not understand the acts committed by him. Therefore, Crl.M.P.Nos.16236 & 16237 of 2024 are to be considered.

4. At the initial stage of trial, plea was taken that the accused was mentally ill. The learned Sessions Judge, Mahila Court, Salem, passed an order on 14.11.2018 for observation and psychiatric evaluation and to provide treatment in Psychiatry Department at Government Mohan Kumaramangalam Medical College Hospital, Salem, as per the letter of Medical Officer, Central Prison Hospital, Salem. The said order dated 14.11.2018 was passed before commencing of trial. The mental condition of the accused was assessed before commencement of trial and an evaluation was done by the doctors at Government Mohan Kumaramangalam Medical College Hospital, Salem. Vide letter dated 18.01.2019, a report was submitted stating that the accused was observed in the Department of Psychiatry as per the Magistrate's order between 09.01.2019 to 18.01.2019 (I.P.No.02359). Detailed investigations and psychiatric examination were done. During the period of observation in



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in Crl.A.No.532 of 2022
and Crl.M.P.No.16950 of 2024
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WEB COPY

Psychiatry ward and also in previous examinations done in the periods as stated above, he did not show any evidence of Psychiatric symptoms. Therefore, the doctors gave an opinion that the accused was not having any signs or symptoms suggestive of any major mental illness and he was found fit to trial.

5. Subsequently, after the report of the doctors, the trial commenced. The accused faced the trial in full and the learned Sessions Judge also had not noticed any indifference. The Judge questioned and the accused also answered. The trial completed and paragraph 57 of the judgment is with reference to the ground of mental illness of the accused.

6. The medical report submitted by Dr.S.Shankar, M.D. (Psychiatry), Assistant Professor in Psychiatry, Government Mohan Kumaranmangalam Medical College Hospital, Salem, is extracted hereunder:-

*“Dinesh kumar(27) S/o Kulanthaivel, was
admitted & observed in psychiatry Ward, Govt Mohan*



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Crl.M.P.Nos.16236 & 16237 of 2024
in Crl.A.No.532 of 2022
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in R.T.No.1 of 2022

Kumaramangalam Medical College Hospital, Salem as per references cited above. Patient had been first seen in Psychiatry OPD on 27.10.2018. At that time he was not communicating and mute. We recommended for Neurologist and ENT opinion. Both of them opined that he is not having any abnormality, within 3 days he started communicating normally and there was no signs and symptoms suggestive of mental illness at that time.

We examined him 2 times while he was in admission (9.11.2018 24.11.2018) in convict ward for his leg ulcer.

We also happened to follow his mental status during our routine prison visit on 7.11.2018, 28.11.18 and 26.12.18.

Further he was observed in the Department of Psychiatry as per Magistrate's order between 09.01.2019 to 18.01.2019 [IP NO: 02359]. Detailed investigations and Psychiatric Examination were done. During the period of observation in Psychiatry



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in R.T.No.1 of 2022

ward and also previous examinations done in the periods mentioned above, he didn't show any evidence of Psychiatric symptoms. With the above findings, I am of opinion that the above individual is currently not having any signs and symptoms suggestive of any major mental illness and he is fit to stand trial.

*ID marks: 1. A black Mole Left side Chest
2. A wound Scar left side chest.”*

7. Mr.Hasan Mohamed Jinna, learned State Public Prosecutor appearing for the petitioner in Crl.M.P.No.16950 of 2024, which has been filed to permit the prosecution to adduce additional evidence by producing the two documents namely (i) the requisition letter dated 14.11.2018 issued by the learned Sessions Judge, Mahila Court, Salem to the Dean, Government Mohan Kumaranmangalam Medical College Hospital, Salem (ii) the medical report of the accused dated 18.01.2019 given by Dr.S.Shankar, M.D. (Psychiatry), Assistant Professor in Psychiatry, Government Mohan Kumaranmangalam Medical College Hospital, Salem,



Crl.M.P.Nos.16236 & 16237 of 2024
in Crl.A.No.532 of 2022
and Crl.M.P.No.16950 of 2024
in R.T.No.1 of 2022

WEB COPY

which are available in the Court records and to mark it as exhibits in
R.T.No.1 of 2022.

8. In view of the above facts and circumstances, Crl.M.P.Nos.16236 & 16237 of 2024 filed by the convict prisoner stands dismissed and Crl.M.P.No.16950 of 2024 filed by the State stands allowed. Consequently, the Registry is directed to issue summon to Dr.S.Shankar, M.D. (Psychiatry), Assistant Professor in Psychiatry, Government Mohan Kumaranmangalam Medical College Hospital, Salem and furnish the copy of the two documents referred in Crl.M.P.No.16950 of 2024 to the convict prisoner through prison authorities, to his counsel and to the State Public Prosecutor. The date of examination is fixed on 08.01.2024.

(S.M.S, J.)

(M.J.R, J.)

09.12.2024

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in R.T.No.1 of 2022

S.M.SUBRAMANIAM, J.
and
M.JOTHIRAMAN, J.

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To

1.The Inspector of Police,
Attur Town Police Station,
Salem District.

2.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

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and Crl.M.P.No.16950 of 2024
in R.T.No.1 of 2022

09.12.2024