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Crl.MP.No.19872/2023 in Crl.A.No.745/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.03.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.19872/2023 in Crl.A.No.745/2023

Sakthivel

.. Petitioner

Versus

State rep. by
The Inspector of Police,
Pallavaram Police Station,
Chennai District.
Cr.No.1112 of 2011

.. Respondent

Prayer:-Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence passed in S.C.No.266 of 2012 by the learned Additional District Sessions Judge, Chengalpet, dated 30.06.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.



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For Petitioner : Mr.S.N.Arun Kumar
For Respondent : Mr.E.Raj Thilak
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 vide judgement and order dated 30.06.2023 passed in S.C.No.266 of 2012 on the file of the learned Additional District Sessions Judge, Chengalpet, and to enlarge the petitioner on bail pending disposal of the appeal.

2. The case of the prosecution is that, the deceased and the petitioner were known to each other; that there was a wordy quarrel between them on 31.10.2011 at about 02.00 p.m., and the deceased attempted to attack the petitioner and the petitioner pushed the deceased, as a result of which, the



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deceased fell down and sustained head injuries and succumbed due to the injuries.

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

4.The learned counsel for the petitioner submitted that even according to the eye witness, P.W.3, the deceased was the aggressor and only to protect the petitioner himself, he pushed the deceased as an act of self-defence, with no intention to cause the death of the deceased. Hence, he prayed for suspension of sentence.

5.Learned Additional Public Prosecutor, per contra, submitted that P.W.3, eye witness, has spoken about the occurrence, and therefore, he prayed for dismissal of the petition.



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6. We have carefully considered the rival submissions. Upon perusal of the records, we find that P.W.3, was examined as the eye witness, and even according to him, there was a wordy quarrel, and it was the deceased who provoked the petitioner and tried to attack him. Thereafter, the petitioner is said to have pushed the deceased. It is pertinent to note that the deceased was aged about 65 years at the time of occurrence. The above evidence indicates that the offence under Section 302 IPC would not be made out; and even if P.W.3 is believed, a lesser offence would be made out.

8. Considering the above facts and since the petitioner is in custody from 30.06.2023, and the appeal is not likely to be taken up in the near future, we are inclined to grant the relief of suspension of sentence to the petitioner herein.

9. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment is **suspended** and the sentence imposed on the petitioner 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 independent sureties, each for a like sum to the satisfaction of the learned Additional District Sessions Judge, Chengalpet;
- (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 every Monday and Thursday 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.

[M.S.R.,J.] [S.M.,J.]
18.03.2024

Anu

Issue order copy by 20.03.2024

Upload the order copy forthwith.

Internet: Yes



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M.S.RAMESH, J

and

SUNDER MOHAN, J

Anu

To

1.The Additional District Sessions Judge, Chengalpet

2.The The Inspector of Police,
Pallavaram Police Station,
Chennai District.

3.The Superintendent of Prison,
Central Prison, Puzhal.

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

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