



Crl.MP.No.187 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2024

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.MP.No.187 of 2024
in Crl.R.C.No.19 of 2024

1. Annamalai
2. Palanisamy
3. Muthusamy

... Petitioners

Vs.

The State Rep. by
The Inspector of Police,
Mangalapuram Police Station,
Namakkal District,
Crime No.101 of 2013

... Respondent

PRAYER:

Criminal Miscellaneous Petition has been filed under Section 389(1) of Code of Criminal Procedure, to suspend the sentence made in CA.No.108 of 2022 dated 22.11.2023 passed by the Additional Sessions Judge, Namakkal, confirming the sentence made in C.C.No.68 of 2016 dated 18.11.2022 passed by the Judicial Magistrate, Rasipuram pending above revision.



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For Petitioners : Mr.A.Gouthaman
for Mr.A.S.Prabu

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

ORDER

The petitioners were convicted for the offence under Sections 25(i) (b)(a) of the Arms Act of 1959 and sentenced to undergo two years Simple Imprisonment and to pay a fine of Rs.1,000/-, in default, one week Simple Imprisonment. Aggrieved over the same, the petitioners filed appeal before the Additional Sessions Court, Nammakkal, the First Appellate Court vide order dated 22.11.2023, confirmed the judgment of conviction and sentence passed by the Trial Court. Challenging the same, the present revision and suspension of sentence have been filed.

2. The case of the prosecution is that on 02.07.2023 at about 4 a.m., the petitioners were riding in a two wheeler. At that time, PW1 and PW2 attached to the respondent Police, were in patrol duty. On suspicion, they stopped the petitioner's vehicle and found that A1 was carrying country gun



without licence and other accused travelled as pillion rider. On enquiry, it was found that the petitioners were carrying the unlicensed country made gun for the purpose of hunting in the wild forest. Hence, a case has been registered against them.

3. In order to prove the case, the prosecution examined 8 witnesses and marked 11 exhibits and 2 material objects have been marked. On the defence side, no witness was examined and no exhibits were marked. After conducting trial, the learned Judicial Magistrate, Rasipuram convicted the petitioners for the above said offences. The appeal preferred by the petitioners was dismissed by the Lower Appellate Court, confirming the conviction and sentence passed by the Trial Court.

4. The learned counsel for the petitioner submitted that, in this case, regarding recovery witnesses, VAO and Village Assistant PWs.3 and 4 have not supported the case of the prosecution. Hence, the recovery of MO1 gun is highly doubtful. He further submitted that the gun was an outdated one and not in a working condition. The gun was kept by the petitioners only as



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souvenir and not for firing purpose. The only private witness PW5 has also not supported the case of the prosecution and other witnesses are official witnesses. Though ballistic report has been marked as Ex.P10, it is seen that no sanction has been obtained. The trial Court failed to consider the above aspects.

5. The learned Additional Public Prosecutor submitted that the prosecution has proved the case beyond all reasonable doubts and there is no valid point available for the petitioner to argue the matter. There is no perversity or illegality in the concurrent findings of the Courts below.

6. It is seen that no sanction has been obtained from the Government under the Arms Act. The recovery witnesses VAO and Village Assistant and also the private witness have not supported the case of the prosecution. The Trial court as well as the First Appellate Court failed to consider the same.

7. Further, the petitioner has already surrendered before the trial Court and is now confined in prison. Further, taking note of the fact that



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there are arguable points involved in this revision and it would take some time for the revision to be taken up for final hearing, this Court is inclined to suspend the sentence imposed on the petitioner.

8. Accordingly, the relief of suspension of sentence and bail are granted on the following conditions till the disposal of the above Criminal revision:

(a) The petitioner/accused is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.5,000/- (Rupees five thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Rasipuram.

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioner shall appear before the Trial Court once in three months at 10.30 a.m. on



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the first working day of the month, until the disposal of the revision and if he is not able to appear before the Trial Court on that 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.

9. Accordingly, this Criminal Miscellaneous Petition is ordered.

06.03.2024

Speaking order/Non-speaking order

Index: Yes/No

Neutral Citation: Yes/No

pvs



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To

WEB COPY

1. The Additional Sessions Juge, Namakkal,
2. The Judicial Magistrate, Rasipuram
3. The Inspector of Police,
Mangalapuram Police Station,
Namakkal District,
Crime No.101 of 2013
4. The Public Prosecutor,
High Court, Madras.

Copy to:

The Superintendent of Police,
Central Prison, Salem



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M.NIRMAL KUMAR, J.

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