



CRL MP(MD) No.1622 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Fifth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.1622 of 2024

in

CRL A(MD) No.77 of 2023

HAMEED

... Appellant / Sole accused

Vs

THE INSPECTOR OF POLICE
AATHOOR POLICE STATION,
THOOTHUKUDI DISTRICT
(CRIME NO.205 OF 2012)

... Respondent / Complainant

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed against the petitioner in SC No.59/2015 on the file Assistant Sessions Court, Tiruchendur dated 22.12.2022 and release the petitioner on bail till the disposal of the appeal.

Prayer in CRL A(MD) No.77 of 2023:

To call for the entire records connected to the judgment in S.C.No.59 of 2015 on the file of the Assistant Sessions Court, Thiruchendur dated 22.12.2022 and set aside the conviction and sentence imposed against the appellant.

Order : This criminal miscellaneous petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments



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of M/s.R.ALAGUMANI, Advocate for the appellant and of Mr.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on him by the learned Assistant Sessions Judge, Tiruchendur, in S.C.No.59 of 2015 dated 22.12.2022 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner in Crime No.205 of 2012 on the file of the respondent/Inspector of Police, Aathoor Police Station, Thoothukudi District, for the offences punishable under Sections 506(ii) and 307 of IPC and the same was taken on file in S.C.No.59 of 2015 before the learned Assistant Sessions Judge, Tiruchendur. The petitioner was convicted and sentenced to undergo 5 years rigorous imprisonment and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) with three months rigorous imprisonment in case of default for offence under Section 506(ii) of IPC, to undergo 10 years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) with six months simple imprisonment in case of default for offence under Section 307 of IPC. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal



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sentence.

along with the above Criminal Miscellaneous Petition seeking suspension of

3. Learned counsel for the petitioner further submitted that the prosecution has failed to prove the allegation levelled against the petitioner and to corroborate the evidence of prosecution witnesses. He further submitted that the trial court failed to consider the fact that the motive behind the alleged occurrence was not established by the prosecution beyond all reasonable doubts and P.W.11-Investigation Officer failed to recover the blood stained soil from the place of occurrence and clothes of P.W.1 and P.W.2 and therefore, prayed for suspension of sentence. He further submitted that the petitioner is in judicial custody from 22.12.2022 and he is the only sole breadwinner of his family.

4. Per contra, Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor submitted that the petitioner/accused caused grievous injuries to P.W.1 and P.W.2, by assaulting them, by brandy bottle. The earlier three applications filed by the petitioner were dismissed by this Court. There is no change of circumstances and without any valid ground, the petitioner has filed this petition and hence, opposed for allowing this petition.

5. Heard the learned counsel on either side and perused the materials available on record.



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6. This Court finds force in the submission of the learned counsel for the petitioner and hence, this Court is of the prima facie view that there are arguable points involved in this Criminal Appeal. Moreover, the petitioner has been incarcerated from 22.12.2022 and further the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Assistant Sessions Judge, Tiruchendur, in S.C.No.59 of 2015 dated 22.12.2022 alone is suspended, subject to the following conditions:-

i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Assistant Sessions Judge, Tiruchendur.

ii) 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 to ensure their identity.

iii) The petitioner shall appear and sign before the learned Assistant Sessions Judge, Tiruchendur, daily at 10.30 a.m., until further orders.

iv) The petitioner shall furnish his residential address and mobile number to the Trial Court ie., learned Assistant Sessions Judge,



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Tiruchendur.

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8. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed.

sd/-
05/03/2024

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11/03/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM

To

1.The Assistant Sessions Judge,
Tiruchendur.

2.The Inspector of Police,
Aathoor Police Station,
Thoothukudi District.

3.The Superintendent,
Central Prison,
Palayamkottai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.ALAGUMANI, Advocate (SR-2743[I] dated 05/03/2024)



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ORDER

IN

CRL MP(MD) No.1622 of 2024

in

CRL A(MD) No.77 of 2023

Date :05/03/2024

ED/ /SAR- (11/03/2024) 6P / 6C

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