



Crl.M.P.(MD) No.1926 of 2024

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

Monday, the Twenty Third day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice C.V.KARTHIKEYAN

and

The Hon`ble Mr.Justice J.SATHYA NARAYANA PRASAD

Crl.M.P.(MD) No.1926 of 2024

in

Crl.A (MD) No. 106 of 2024

KUTHPUDEEN

... PETITIONER/ APPELLANT/
ACCUSED NO.2

Vs

THE INSPECTOR OF POLICE
PATTIVEERANPATTI POLICE STATION,
DINDIGUL DISTRICT.
CRIME NO. 177 OF 2013

... RESPONDENT/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 / Appellant in S.C No. 242 of 2018 dt. 31.10.2023 on the file of the Honble Additional District and Sessions court, Dindigul and release me on bail till the disposal of the criminal appeal.

Prayer in Crl.A (MD) No. 106 of 2024:

To call for the entire records connected to the judgment in S.C.No.242 of 2018 dated 31.10.2023 on the file of the Hon'ble Additional District and Sessions Judge, Dindigul and set aside the conviction and sentence imposed against the appellant.



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Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.T.LAJAPATHI ROY, Senior Counsel for MR.R.ALAGUMANI, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

A2 in S.C.No.242 of 2018 who had been convicted by the Additional District and Sessions Court, Dindigul for commission of offence punishable under Section 302 IPC and sentenced to life imprisonment and fine of Rs.10,000/- in default three months simple imprisonment and for offence punishable under Section 307 IPC to ten years rigorous imprisonment and fine of Rs.5,000/- in default three months simple imprisonment, had filed Criminal Appeal (MD) No.106 of 2024.

2. In the criminal appeal, the present petition had been filed by the petitioner/A2 seeking execution of sentence alone. In the affidavit filed, it had been stated that A1, A2 and A3, are brothers and A6 is the mother. A4 and A5 are the friends of the petitioner herein.

3. On 02.07.2013 at around 11.00 p.m., the petitioner and all the other accused were playing carrom board game in front of the house of one Mani at



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Chekkadi Street. At that time, the deceased Jain Alavudeen scolded them and quarrelled since according to him, the 40th day ceremonies of a dead relative was being undertaken and while playing carrom board game by shouting out loudly, the accused were creating disturbances. At that time, a quarrel arose and the accused had attacked the deceased and also P.W.2, Masthal Ali with knives.

4. In respect of this, FIR in Crime No.177 of 2013 had been registered initially for offences punishable under Sections 147, 148, 294(b), 341, 324, 506(ii) and 307 IPC. Subsequently, Jain Alavudeen died and the offences were altered to also include Section 302 IPC. After investigation, final report had been filed by the respondents and taken cognizance as P.R.C.No.18 of 2014 by the learned Judicial Magistrate, Nilakottai. Since the offences under Section 307 and 302 IPC were triable exclusively by a Court of Sessions, the learned Magistrate had committed the case before the Principal Sessions Court at Dindigul. The same was taken on file as S.C.No.92 of 2022. The trial was conducted and by judgment dated 31.10.2023, the petitioner/A2 was convicted and sentenced as aforementioned for offences under Sections 302 and 307 IPC. The other accused had not been convicted under Sections 302 and 307 IPC. The charge against A1 stood abated since he was dead.



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5. There is one more intervening circumstance that had happened namely that A1, who had been noted as dead was actually murdered as a retaliation murder. In respect of that, FIR in Crime No.70 of 2014 had been registered by the respondent police and we are informed that final report had been filed and after being taken cognizance, S.C.No.118 of 2021 is pending trial and listed on 27.09.2024 before the Principal District and Sessions Court at Dindigul.

6. In those circumstances, we wanted a report as to the present position relating to the hostility among the parties.

7. A counter-affidavit had been filed on behalf of the respondents wherein, the facts had been stated and objections had been raised for suspension of sentence. However, it had been contended on behalf of the petitioner that the entire incident happened owing to sudden provocation in the middle of the night. The accused persons were playing carrom board game innocently but owing to the heat generated in the game they had raised their voices which was objected by the deceased and P.W.2. A quarrel had taken place and escalated to violence and injuries had been caused initially necessitating the registration of FIR under Section 307 IPC



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and subsequently, altering the same to Section 302 IPC. However, we also note that the entire incident happened in the year 2014 and the accused were also in bail during the course of trial and further, right from 2014 till 2024, no untoward incident had occurred.

8. Taking all these aspects, the suspension of sentence is granted to the petitioner/A2. However, we would place some restrictions on the petitioner/A2 herein on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Additional District and Sessions Judge at Dindigul;

(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 and mobile number to ensure their identity; and

(iii) The petitioner shall appear before the respondent police



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everyday at 05.30 p.m. till the conclusion of trial in S.C.No.118 of 2021.

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sd/-
23/09/2024

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24/09/2024

Sub-Assistant Registrar (CS- IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1.THE ADDITIONAL DISTRICT AND SESSIONS JUDGE AT DINDIGUL;

2.THE INSPECTOR OF POLICE
PATTIVEERANPATTI POLICE STATION,
DINDIGUL DISTRICT.

3.THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.DR.R.ALAGUMANI, Advocate (SR-11586[I] dated 23/09/2024)

ORDER
IN

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in

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Date :23/09/2024



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