



CRL MP(MD) No.3565 of 2023

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

Wednesday, the Tenth day of July Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
and
The Hon`ble Mr.Justice K. RAJASEKAR

CRL MP(MD) No.3565 of 2023
in
CRL A(MD) No.156 of 2023

R.RAJAGURU @ GURU

... APPELLANT/ACCUSED NO.1

Vs

THE INSPECTOR OF POLICE
MANACHANALLUR POLICE STATION,
TRICHY DISTRICT.
(CRIME NO.59/2017)

... 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 of Imprisonment imposed by learned 2nd Additional District and Sessions Judge, Tiruchirappalli in SC.No.124/2018 by the Judgement dt.9/1/2023 and enlarge the petitioner/appellant on bail, pending disposal of the above said Criminal Appeal.

Prayer in CRL A(MD) No.156 of 2023 :

To call for records and set aside the Judgment and Conviction dated 09.01.2023, by the learned 2nd Additional District and Sessions Judge, Trichirappalli in S.C.No.124 of 2018 and acquit 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 of M/S.M.KARUNANITHI, Advocate for the petitioner and of MR.R.MEENAKSHI

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SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

The case of the prosecution is as follows:

(i) The deceased Sudharshan was a painter and his sisters were working in Trichy. After work, he used to come to Nochiyam and return to Village along with his sisters. Few days prior to the occurrence, while the deceased was travelling with his cousin sister Aarthi (P.W.8) in a town bus, A1 Rajaguru @ Guru was speaking with her. When the same was questioned by the deceased, there was a wordy quarrel between the deceased and A1 and the people nearby intervened and pacified both of them. A1 had informed this incident to A2 and A3.

(ii) On 04.02.2017 at about 9.00 PM, the accused have bought liquor and sat on the cement slab near Pillaiyar Temple on the way to Kollidam river bank and had conversation. At about 9.30 PM, when the deceased Sudharshan called his sister Gowthami (P.W.6) as usual for returning to Village, she asked him to go by bus since she would be late. Thereafter, the deceased went to Pillaiyar temple near Kollidam river bank. At that time, on seeing the deceased Sudharshan, all the accused decided to kill him and had taken him to a cement slab near burial ground on the pretext of consuming liquor. During that time, A2 picked up a quarrel with the deceased and pushed him down. Thereafter, A1 and A3 had thrown stone and sand on the



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deceased. While A2 and A3 caught hold of the deceased, A1 broke the beer bottle and stabbed the deceased Sudharshan on his right neck causing his death and thereby, the accused had committed the murder of the deceased.

(iii) Based on Ex.P1 complaint given by Kennedy (P.W.1), father of the deceased, P.W.16 Sub Inspector of Police, Mannachanallur Police Station, registered the FIR in Crime No.59/2017 under Section 302 IPC.

(iv) P.W.17 Inspector of Police took up the case for investigation and visited the scene of occurrence and prepared observation mahazar (Ex.P2) and rough sketch (Ex.P18) in the presence of the witnesses. Thereafter, P.W.17 seized the blood stained earth, sample earth, cell phone, a pair of slippers, blood stained and ordinary piece of beer bottle from the scene of occurrence in the presence of witnesses under Ex.P3 Mahazar. P.W.17 conducted inquest on the body of the deceased in the presence of Panchayatars and prepared the inquest report (Ex.P26) and thereafter, P.W.17 sent the body of the deceased for postmortem. He examined the witnesses and recorded their individual statements.

(v) On 06.02.2017 at about 15.00 hours, P.W.17 arrested all the accused near Nochiyam Irattai Mandapam. Based on the confession given by the accused voluntarily, P.W.17 recovered the blood stained clothes of the accused under Mahazar and sent the accused to judicial custody. After recording the statements of



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the witnesses and collecting the medical reports, P.W.17 completed the investigation and filed a final report against the accused under Section 302 r/w 34 IPC.

(vi) The final report was taken on file in P.R.C.No.30/2017 by the learned Judicial Magistrate No.III, Tiruchirappalli. After compliance of the mandate under Section 207 Cr.P.C, finding that it is a case triable by the Court of Sessions, the case was committed to the learned Principal District and Sessions Judge, Tiruchirappalli. The case was taken up in S.C.No.124/2018 and made over to the file of the learned II Additional District and Sessions Judge, Tiruchirappalli for trial.

(vii) On appearance of the accused, the provisions of Section 207 of the Code of Criminal Procedure were complied with and the Trial Court, after hearing the accused, framed the following charges:

Accused	Charges framed
A1 to A3	302 r/w 34 IPC

(viii) When questioned, the accused pleaded 'not guilty'. To prove the case, the prosecution examined 17 witnesses and marked 27 exhibits and 11 material objects. When the accused were questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against them, they denied the same and did not come forward to give any plausible explanation. No witness was examined from the side of the accused nor any document marked.



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(ix) By judgment dated 09.01.2023, the Trial Court found the accused A1 guilty for the offence under Section 302 IPC. The Trial Court convicted and sentenced the accused as follows:

Accused	Section of law	Sentence of Imprisonment	Fine amount
A1	302 IPC	Life imprisonment	Rs.5000/-

A2 and A3 were acquitted of all the charges on the benefit of doubt.

2. Challenging the said conviction and sentence, A1 has filed CrI.A.(MD). No.156 of 2023. Pending appeal, he has filed the present Criminal Miscellaneous Petition seeking for suspension of sentence.

3. The learned counsel appearing for the petitioner would submit that the petitioner/A1 was tried along with two other accused. It is a case only based on circumstantial evidence and there is no witness to the occurrence. Even as per the prosecution, there was no premeditation and the incident is said to have happened during a quarrel between the accused and the deceased, when they were consuming liquor together. The learned counsel would further submit that the petitioner has got no previous cases and thereby, would seek for suspension of sentence.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that it is a case of circumstantial evidence. The petitioner



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along with two other accused were consuming liquor with the deceased and at that time, there was quarrel between them, due to which, the petitioner and two other accused assaulted the deceased and the petitioner/A1, after breaking a beer bottle, had stabbed the deceased in his neck, which resulted in the death of the deceased. Hence, he prays for dismissal of the suspension of sentence application.

5. Heard the learned counsels on both sides and perused the materials available on record.

6. On perusal of records, we find that it is a case for grant of suspension of sentence. Accordingly, the Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment alone imposed on the petitioner/A1 is suspended, subject to the following conditions:

i. The petitioner/A1 is directed to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees twenty five thousand only), with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judicial Magistrate No.III, Trichy.

ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Committal Court may obtain a copy of their Aadhar card or Bank passbook to ensure their identity.

iii. The petitioner/A1 shall stay at Chennai and report before the Inspector of



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Police, North Beach Police Station, Chennai daily at 10.30 a.m. until further orders.

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sd/-
10/07/2024

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12/07/2024

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

LM

TO

1 THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TRICHY.

2 THE JUDICIAL MAGISTRATE NO.III,
TRICHY.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY.

4 THE INSPECTOR OF POLICE, MANACHANALLUR POLICE STATION,
TRICHY DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON,
TRICHY.

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

COPY TO

THE INSPECTOR OF POLICE,
NORTH BEACH POLICE STATION,
CHENNAI

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+1 CC to M/s.M.KARUNANITHI, Advocate (SR-7834[I] dated 12/07/2024)

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ORDER

IN

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in

CRL A(MD) No.156 of 2023

Date :10/07/2024

RS//SAR-(12.07.2024) 8P 9C

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