



CRL MP(MD) No.2768 of 2024

WEB COPY

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.2768 of 2024

in

CRL A(MD)No.915 of 2023

1 MANOKARAN

2 MANIVANNAN @ MANI

3 GUNASEKARAN

... PETITIONERS/ APPELLANTS 1,2 & 5

Vs

THE INSPECTOR OF POLICE
THIRUNEELAKUDI POLICE STATION,
THANJAVUR DISTRICT.
CR NO. 36/2020

... RESPONDENT/RESPONDENT

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 in the judgment of conviction and sentence dated 11.09.2023 in S.C No. 89/2020 on the file of the learned Additional District and Sessions Judge (Fast Track court) Kumbakonam and enlarge the petitioners/ Appellants on bail pending above criminal appeal.

PRAYER in CRL A(MD)No.915 of 2023:

To call for the records and set aside the against the Judgment of conviction and sentence dated 11.09.2023 in S.c.nO.89 of 2020 on the file of the learned Additional District and Sessions Judge(Fast track Court) Kumbakonam.



CRL MP(MD) No.2768 of 2024

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 Mr.V.R.SHANMUGANATHAN, Advocate for the petitioner and of Mr.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

The petitioners have filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on them by the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam in S.C.No.89 of 2020 dated 11.09.2023 and to enlarge them on bail, pending disposal of the Criminal Appeal.

2. According to the prosecution, on 11.02.2020 at about 3.00 p.m., the petitioners/A1, A2 & A5 along with other accused have interfered with the operation of harvesting machine in the lands of one Anjammal and that the quarrel erupted between the parties. Subsequently, the petitioners/accused abused and attacked one Kalyanakumar (P.W.1) and his maternal uncle Kalimuthu, pursuant to which, the said Kalimuthu was succumbed to the injuries. Thereafter, based on a complaint preferred by Kalyanakumar (P.W.1), a case has been registered in Crime No.36 of 2020 on the file of the respondent police and the same was taken on file in S.C.No.89 of 2020 before the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam The petitioners were convicted and sentenced by the trial Court as follows:-



CRL MP(MD) No.2768 of 2024

WEB COPY

(a) The petitioners were convicted and sentenced under Section 147 of IPC to undergo two years Simple Imprisonment and to pay a fine of Rs.500/- (Rupees Five Hundred only) with three months Simple Imprisonment in case of default;

(b) The petitioners were convicted and sentenced under Section 341 of IPC to pay a fine of Rs.500/- (Rupees Five Hundred only) with one month Simple Imprisonment in case of default;

(c) The petitioners were convicted and sentenced under Section 304(ii) of IPC to undergo ten years Simple Imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) with one year Simple Imprisonment in case of default.

3. Learned counsel for the petitioners submitted that the petitioners/A1, A2 & A5 were in incarceration from 11.09.2023 and that they are the agricultural coolies and sole breadwinners of their respective families. There is no bad antecedents against the petitioners. He further submitted that the Court below has failed to appreciate the fact that the prosecution has not proved through any of the witnesses that the petitioners have committed the alleged offence under Section 304 (ii) of IPC with a common intention/knowledge that it will cause or likely to cause death to the deceased and hence, he prays for grant of suspension of sentence to the petitioners.



CRL MP(MD) No.2768 of 2024

WEB COPY

4. Per contra, Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor would submit that there are specific overt act against the petitioners. The petitioners along with other accused are members of unlawful assembly and Accused Nos.1 to 5 had kicked and punched the deceased thereby caused internal injuries. Therefore, there are enough materials available on record against the petitioners and hence, opposed for allowing the petition.

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

6. Considering the arguable points involved in the Criminal Appeal and the nature of offence, this Court is of the *prima facie* view that the sentence imposed on the petitioners/accused Nos.1, 2 & 5 herein alone is to be suspended pending this Criminal Appeal.

7. Accordingly, this Criminal Miscellaneous Petition is partly allowed. The sentence imposed on the petitioners/accused Nos.1, 2 & 5 herein by the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam in S.C.No.89 of 2020 dated 11.09.2023 alone is suspended subject to the following conditions:-



CRL MP(MD) No.2768 of 2024

WEB COPY

i) The petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam.

ii) The petitioners shall appear and sign before the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam, on the 1st and 15th working day of every English calender month at 10.30 a.m., until further orders.

iii) In case, if the petitioners are unable to appear before the Court on the 1st and 15th working day of a month, they shall appear on the next working day.

iv) The petitioners shall furnish their residential address and mobile numbers to the Trial Court ie., learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam.

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

sd/-

05/03/2024

/ TRUE COPY /

06/03/2024

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

RM



CRL MP(MD) No.2768 of 2024

TO

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
(FAST TRACK COURT) KUMBAKONAM
- 2 THE INSPECTOR OF POLICE
THIRUNEELAKUDI POLICE STATION,
THANJAVUR DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.VR.SHANMUGANATHAN, Advocate (SR-2742[I] dated 05/03/2024
)

ORDER

IN

CRL MP(MD) No.2768 of 2024

in

CRL A(MD)No.915 of 2023

Date :05/03/2024

SS/SAR- /06/03/2024/6P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023