



Crl.M.P.(MD) No.3272 of 2024

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

Thursday, the Twenty Eighth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

Crl.M.P.(MD) No.3272 of 2024
in
Crl.A.(MD) No.225 of 2024

SELVAM

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
DEVAKOTTAI TALUK POLICE STATION,
SIVAGANGAI DISTRICT.

... 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 against the petitioner in SC No.21/2018 dt.28.02.2024 passed by the Learned Additional District and Sessions Court, Sivagangai and enlarge him on bail pending disposal of the above appeal.

PRAYER IN Crl.A.(MD) No.225 of 2024:

To call for the records in S.C.No.21 of 2018 dated 28.02.2024 passed by the Learned Additional District and Sessions Court, Sivagangai and to set aside the same.

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.C.JEYA PRAKASH, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate(Crl.side) on behalf of the Respondent, the court made the following order:-



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The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence passed against him by the learned Additional District and Sessions Judge, Sivagangai in S.C.No.21 of 2018 dated 28.02.2024 wherein, the petitioner has been convicted and sentenced to undergo 10 years R.I for the offence punishable under Section 304(ii) of IPC and to pay a fine of Rs.5,000/- in default.

2. The case of the prosecution is that due to the quarrel erupted between the petitioner/accused and deceased Kalimuthu, the petitioner attacked the deceased by kicking on his stomach and thereby, the deceased was admitted as an inpatient at Sivagangai Government Hospital on 20.04.2017 and succumbed to the injury on 29.04.2017.

3. Learned counsel for the petitioner submits that the complainant is the wife of the deceased. Both the accused and the deceased belongs to Thalakkavayal Village of Devakottai. It is the contention of the learned counsel for the petitioner that the trial Court has failed to consider the fact that the alleged eye witness P.W.6 has turned hostile and similarly, P.W.5 to P.W.8 had not deposed against the petitioner in any manner. He further submitted that since there is no mens rea on the part of the petitioner and there is no forcible evidence to substantiate that the attack had caused



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the death, the trial Court ought to have acquitted the appellant. There is no legal evidence available on record and hence, the learned counsel prays for suspension of sentence of the petitioner.

4. Heard the learned counsel for the petitioner as well as the learned Additional public Prosecutor and perused the materials on record.

5. Considering the aspects submitted by the learned counsel for the petitioner and taking note of the facts and circumstances of the case, this Court is of the prima facie view that the sentence is to be suspended pending this Revision Case.

6. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Additional District and Sessions Judge, Sivagangai in S.C.No.21 of 2018 dated 28.02.2024, 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 Judicial Magistrate, Sivagangai.



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ii) The petitioner shall appear and sign before the learned Judicial Magistrate, Sivagangai, on the first working day of every English calender month at 10.30 a.m., until further orders.

iii) In case, if the petitioner is unable to appear before the Court on the first working day of a month, he shall appear on the next working day.

iv) The petitioner shall furnish his residential address and mobile number to the concerned Court ie., learned Judicial Magistrate, Sivagangai.

7. Subject to the above conditions, this Petition is allowed.

sd/-
28/03/2024

/ TRUE COPY /

12/04/2024
Sub-Assistant Registrar (CS -I/ II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

pkn

TO

1.THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, SIVAGANGAI

2. THE JUDICIAL MAGISTRATE, SIVAGANGAI.

<https://www.mhc.tn.gov.in/judis>



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3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI.

4.THE INSPECTOR OF POLICE
DEVAKOTTAI TALUK POLICE STATION,
SIVAGANGAI DISTRICT.

5.THE SUPERINTENDENT,
CENTRAL PRISION, MADURAI.

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

+2 CC to M/s.S.MUTHUKUMAR, Advocate (SR-3918[I] dated 28/03/2024)

ORDER
IN
Crl.M.P.(MD) No.3272 of 2024
in
Crl.A.(MD) No.225 of 2024
Date :28/03/2024

RK/ (12/04/2024) 5P / 9C

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