



CRL MP(MD) No.4449 of 2024

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

Thursday, the Nineteenth 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.4449of 2024
in
CRL.A.(MD)No.252 of 2024

1 KALAIARASAN

2 RAJA @ PERIYA RAJA

... PETITIONERS/ APPELLANTS

Vs

THE INSPECTOR OF POLICE
PAVOORCHATHIRAM POLICE STATION,
TENKASI DISTRICT.
CRIME NO. 95/2019

... 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 conviction and sentence passed by the learned Additional District and Sessions Judge (FTC) Tenkasi in S.C No. 374 of 2019 dt. 19.12.2023 and enlarge them on bail pending disposal of the above criminal appeal on the file of this Honble High Court.

Prayer in CRL.A.(MD)No.252 of 2024:

Pleased to call for records and set aside the conviction and sentence passed by the Learned Additional District & Sessions Judge (FTC), Tenkasi in S.C.No.374 of 2019 dated 19.12.2023 and acquitted the appellant herein.



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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.ANANTH C RAJESH, Advocate for the petitioner and of Mr.T.SENTHIL KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the accused 2 and 3 seeking suspension of sentence. They had been convicted in S.C. No.374 of 2019 by the learned Additional District and Sessions Judge, Fast Track Court, Tenkasi by judgment dated 19.12.2023 and convicted for the offence under Sections 449,302,506 (1)r/w.34 of IPC and convicted under Section 449 of IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.2000/- i/d to undergo simple imprisonment for a period of one year and convicted for the offence under Section 302 of IPC and sentenced to to undergo imprisonment for life and to pay a fine of Rs.2000/- in default to undergo simple imprisonment for a period of one year and convicted for an offence under Section 506(i) of IPC and sentenced to pay a fine of Rs.1000/- i/d to undergo one month simple imprisonment. A1 had not filed any application seeking suspension of sentence.

2. It is the case of the prosecution that A2 who is the son of the A3 had pulled the hand of P.W.5 during pongal festival on 15.01.2019. The ensuing quarrel was compromised by the deceased. But later on 16.01.2019, A2 found that his gold chain was missing. He then picked up a quarrel with the deceased on 16.01.2019 and



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demanding return of gold chain. These two incidents were projected as motive by the prosecution. In the meanwhile on 01.03.2019 at about 6.30 am., the dead body of the deceased was found by P.W.11 who is the co-employee of the deceased. It was found that the deceased had been murdered at 01.00 am., on 01.03.2019 and this had been spoken to by P.W.3 and P.W.4 who claimed to be witnesses to the said incident but had not informed anybody and also not lodged any complaint but had voluntarily come forward on 03.03.2019 to speak about the incident. The delay by P.W.3 and P.W.4 to divulge this information, is a point to be argued during the course of arguing the criminal appeal. The prosecution had also marshalled P.W.6 who had stated that at 1.00 a.m., on 01.03.2019 he had seen the accused persons crossing across his shop. Whether by walking it can be termed that the accused had committed murder is again the issue which had to be argued during the course of criminal appeal. A3, incidentally is aged about 58 years as on the date of filing criminal appeal

3. Taking into consideration the nature of evidence adduced by the prosecution that there are arguable points to be advanced during the hearing of criminal appeal, we are inclined to entertain this petition and to suspend the sentence imposed against the petitioners. Accordingly, this Criminal Miscellaneous Petition is ordered and the imprisonment ordered by the trial Court through the impugned judgment, dated



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19.12.2023 is suspended subject to the following conditions:-

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- i. The petitioners are directed to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees twenty five thousand only), each with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Additional District and Sessions Judge, Fast Track Court, Tenkasi.
- ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Sessions Court may obtain a copy of their Aadhar card or Bank passbook to ensure their identity.
- iii. The petitioners shall report before the Additional District and Sessions Judge, Fast Track Court, Tenkasi in the first monday of every English calendar month at 10.30 AM until further orders.
- iv. It is made clear that the petitioners shall not enter into the jurisdictional limits of the respondent Police Station until further orders.

sd/-
19/09/2024

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20/09/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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AAV

TO

1 THE ADDITIONAL DISTRICT & SESSIONS JUDGE,
FAST TRACK COURT, TENKASI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE
PAVOORCHATHIRAM POLICE STATION,
TENKASI DISTRICT.

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

+1 CC to M/s.ANANTH C.RAJESH, Advocate (SR-11412[I] dated 19/09/2024)

ORDER
IN
CRL.M.P.(MD)No.4449of 2024
in
CRL.A.(MD)No.252 of 2024
Date :19/09/2024

SA/VR/SAR. /20.09.2024/5P/6C

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