



CRL MP(MD) No.4371 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Monday, the Twenty Second day of April Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.4371 of 2024

in

CRL A(MD)No. 319 of 2024

SELVAKUMAR @ NEHRA

... PETITIONER/ APPELLANT

/ ACCUSED NO.1

Vs

THE INSPECTOR OF POLICE
THIRUTHANGAL POLICE STATION,
VIRUDHUNAGAR DISTRICT.

CRIME NO. 149/2018 ... 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 and enlarge the petitioner on bail imposed on the appellant by the judgment dt. 24.01.2024 made in S.C no. 89/2018 on the file of the Additional District and Sessions court, Srivilliputhur.

PRAYER IN CRL A(MD)NO. 319 of 2024:

Pleased to call for the records relating to the judgment dated 24.01.2024 made in

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



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S.C.No. 89 of 2018 on the file of Additional District and Sessions Court, Srivilliputhur and set aside the conviction and sentence imposed against the appellant/accused and allow above appeal by acquitting the accused.

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.MAREES KUMAR.E, Advocate for the petitioner and of MR.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This petition is filed to suspend the sentence imposed by the Additional District and Sessions Court, Srivilliputhur, in S.C.No.89 of 2018 dated 24.01.2024 and enlarge the petitioner on bail till the disposal of the Criminal Appeal.

2.The case of the prosecution is that deceased, Prasannakumar, Rajesh @ Kuttiyan, Murugaboobathi and Kesavan are friends. On 11.02.2018, in order to celebrate the engagement of the second accused, they went to kanmai. At that time, the second accused teased the deceased and the same was ended in quarrel. In the said sudden quarrel, the accused persons attacked the deceased brutally and due to the injuries, the deceased died on the spot. Hence, the respondent police registered a case in Crime No.149 of 2018, for the offence under Sections 302 and 506(2) of IPC.

After investigation, the respondent police filed final report before the Additional

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



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District and Sessions Court, Srivilliputhur and the same was taken on cognizance in S.C.No.89 of 2018 for the offence under Sections 302 r/w 34, 506(2) r/w 34 IPC.

3.The learned counsel for the petitioner would submit that a case has been registered against the petitioner and other accused in Crime No.149 of 2018 on the file of the respondent Police, for the offences punishable under Sections 302 IPC and the same was taken on file in S.C.No.89 of 2018 before the learned Additional District and Sessions Judge, Srivilliputhur, Virudhunagar District. The trial Court convicted the petitioner/A2 for the offence under Section 304(ii) r/w 34 IPC and sentenced him to undergo five years rigorous imprisonment and to pay a fine of Rs.1000/- in default, to undergo two months simple imprisonment. Challenging the above said conviction, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence. Learned counsel for the petitioner further submitted that the accused has no intention to kill the deceased, but based on the evidence of P.W3 and P.W4 alone, the trial Court had imposed the conviction and sentence upon the accused. Accordingly, the trial Court has failed to appreciate all the evidence in proper perspective.



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4.The learned counsel for the petitioner further submitted that there are some arguable points involved in the criminal appeal and the learned Appellate Judge have not considered the evidence in proper prospect and hence, there is perversity in the judgment of the both the Court below. Hence, he seeks for the suspension of sentence.

5.This Court has carefully considered the submission made by the learned counsel for the petitioner and also perused the materials available on record.

6.Considering the period of incarceration from 24.01.2024 and as rightly contended by the learned counsel for the petitioner that there was a sudden quarrel and in the said sudden quarrel, the petitioner said to have attacked the deceased without any premeditation and intention to cause death and the sentence imposed against the co-accused also suspended by this Court in CrI.M.P.(MD).No.1861 of 2024 in CrI.A.(MD).No.104 of 2024 and number of arguable points involved in the criminal appeal, this Court is inclined to grant suspension of sentence and accordingly, this petition is allowed on the following conditions:

- (i)the petitioner is directed to be enlarged on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties (one blood surety)each for a like sum to the satisfaction of the learned

Judicial Magistrate No.II, Sivakasi;



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- (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 to ensure their identity; and
- (iii) the petitioner shall appear before the trial Court once in a month i.e., on the first working day of every month at 10.30 a.m., till the disposal of the appeal.

sd/-
22/04/2024

/ TRUE COPY /

23/04/2024
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS
TO

- 1 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE, SRIVILLIPUTHUR.
- 2 THE INSPECTOR OF POLICE
THIRUTHANGAL POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 4 THE JUDICIAL MAGISTRATE NO.II
SIVAKASI



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5 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.

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

COPY TO
THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.E.MAREES KUMAR, Advocate (SR-4681[I] dated 22/04/2024)

ORDER
IN
CRL MP(MD) No.4371 of 2024
in
CRL A(MD)No. 319 of 2024
Date :22/04/2024

PKP/23.04.2024/ 6P/ 9C

Madurai Bench of Madras High Court is issuing certified
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