



Crl.M.P.(MD) No.4256 of 2024

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

Wednesday, the Twenty Fourth 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.M.P.(MD) No.4256 of 2024  
in  
Crl.A.(MD) No.302 of 2024  
and  
Crl.M.P(MD)No.4482 of 2024  
in  
Crl.A(MD)No.345 of 2024

1 ARUL DEVADOSS

2 JACOBPAUL

... APPELLANTS/ ACCUSED 2 & 5  
IN CRL.MP(MD).4256/2024

JEBARAJ

... PETITIONER/PETITIONER  
IN CRL.MP(MD).4482/2024

Vs

THE INSPECTOR OF POLICE  
KANYAKUMARI POLICE STATION,  
KANYAKUMARI  
CRIME NO.1127 OF 2012

... RESPONDENT/COMPLAINANT  
IN CRL.MP(MD).4256/2024

... RESPONDENT/RESPONDENT  
IN CRL.MP(MD).4482/2024



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Prayer in CRL MP(MD). 4256/ 2024 :

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 the learned Additional District and Sessions Court(Fast Track Court) Kanyakumari District, Nagercoil in SC No.168/2013 by Judgment dt.14/3/2024 and enlarge the petitioner/appellant on bail, pending disposal of the above said Criminal Appeal.

Prayer in Crl.A(MD).302/2024:

Pleased to call for the records and set aside the Judgment and Conviction dated 14.03.2024, by the learned Additional District Sessions Court (Fast Track Court), Kanyakumari District, Nagercoil, in S.C.No.168 of 2013 and acquit the Appellants.

Prayer in CRL MP(MD). 4482/ 2024 :

To suspend the sentence imposed against the petitioner in S.C No. 168 of 2013 on the file of the Additional Sessions Court (Fast Track) Kanyakumari District at Nagercoil dt. 14.03.2024, pending disposal of the Criminal Appeal and enlarge the petitioner on bail.

Prayer in Crl.A(MD).345/2024:

Pleased to call for the records and set aside the Conviction imposed against the Appellant/4<sup>th</sup> Accused imposed in S.C.No.168 of 2013 on the file of the Additional Sessions Court (Fast Track Court), Kanyakumari District at Nagercoil dated 14.03.2024.

Order : These Criminal Miscellaneous Petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.P.T.RAMESH RAJA, Advocate for the petitioner in Crl.MP(MD).4256/2024 and Mr.APPAJI.C.K.M., Advocate for the Petitioner in Crl.MP(MD).4482/2024 and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent in both Petitions, the court made the following order:-

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

Seeking to suspend the sentence imposed on the petitioners/A2, A5 & A4 by

the learned Additional Sessions Court (Fast Track) Kanyakumari District at

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



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Nagercoil, vide Judgment dated 14.03.2024 in S.C.No.168 of 2013, they have filed this criminal miscellaneous petition.

2. The case of the prosecution is as follows:

(i) There was a dispute between P.W.1, Arulveerasadas and the accused party regarding electricity connection in the disputed pathway and the civil case also ended in favour of P.W.1. On 24.12.2012, when EB employees were taking steps for providing electricity connection to the house of P.W.1, A4 Jebaraj came there and intercepted the work by claiming right over the pathway. Hence, the employees informed P.W.1 that they will do the work with the help of Police after two days and returned without giving electricity connection. On the same day at 6.00 PM, when P.W.1 was returning to his house, near the house of the deceased Muthuraj, who is the uncle of P.W.1, the accused persons A1 to A5 came with deadly weapons and intercepted P.W.1 and quarrelled and abused him in filthy language. A1 attacked P.W.1 on his head by using an aruval and A3 attacked P.W.1 on his left hand and back with the handle of shovel and A2 threw a stone on his left rib and A4 hit the P.W.1 on his left hand and back by using an iron rod and A5 hit P.W.1 on his back with a stick and thereby, the accused persons attempted to murder him. When the uncle of P.W.1, Muthuraj came to prevent the attack, all the accused persons assaulted him by using the stick and iron rod and when the deceased fell down, A1,



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A2 and A5 stamped him on his chest. Pursuant to the same, A1 assaulted P.W.2 Christopher Babu on his front and back head using an aruval and A4 hit him using iron rod and attempted to murder him. When P.W.3 Selvabai and P.W.4 Kalaiselvi came to prevent the attack, A1 and A4 stamped them causing injuries. Thereafter, A1 hit P.W.5 Jansirani using a motorcycle, as a result of which, she fell down and sustained injuries. The injured P.W.1 and P.W.5 were taken to Kanyakumari Government Hospital by P.W.7 and one Sekar and thereafter, they were sent to Asaripallam Government Hospital for further treatment. P.W.2, P.W.3 and P.W.4 and the deceased Muthuraj were taken to A.J. Hospital for treatment and thereafter, the deceased Muthuraj was sent to Asaripallam Government Hospital and P.W.2 was sent to Muthu Neuro Hospital for further treatment. The Doctor examined the deceased Muthuraj and declared him as 'brought dead' and sent him to mortuary.

(ii) On information, P.W.18 Sub Inspector of Police went to the Asaripallam Government Medical College Hospital and received the complaint Ex.P1 from P.W.1, who was undergoing treatment. Based on the complaint Ex.P1, FIR (Ex.P18) was registered in Crime 1127/2012 for the offences under Sections 147, 148, 341, 294(b), 323, 324, 307 and 302 IPC.

(iii) P.W.19, Inspector of Police, took up the case for investigation and visited the scene of occurrence and prepared observation mahazar and rough sketch and



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examined the witnesses and recorded their statements. Thereafter, he went to the hospital and examined the witnesses P.W.1 to P.W.5 and recorded their statements. P.W.19 went to the mortuary and conducted inquest in the presence of the witnesses and prepared the inquest report and thereafter, he sent the body of deceased for postmortem. Thereafter, P.W.19 arrested the accused persons A1 and A3 to A5 in the presence of the witnesses and on the basis of their confession, he recovered the weapons and motorcycle under Mahazar.

(iv) Thereafter, the case was handed over to P.W.20 Thangaraj, Inspector of Police. P.W.20 took up the case for further investigation and examined the witnesses and recorded their statements. After collecting the medical and forensic evidence, he completed the investigation and filed the final report under Section 173(2) of the Cr.P.C.

(v) After taking the final report in P.R.C.No.14/2013, the learned Judicial Magistrate No.1, Nagercoil had furnished the copies of the case records to the accused on free of cost under Section 207 Cr.P.C. and the case was committed to the learned Additional District and Sessions Judge, Kanyakumari at Nagercoil. The case was taken up in S.C.No.168/2013.

(vi) 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



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accused, framed the following charges:

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| Accused       | Charges framed                                                                            |
|---------------|-------------------------------------------------------------------------------------------|
| A1            | 147, 148, 307 r/w 34, 302 r/w 34, 324 r/w 34 (2 counts) IPC and<br>Section 4 of TNPHW Act |
| A2, A3 and A5 | 147, 148, 307 r/w 34, 302 r/w 34 IPC                                                      |
| A4            | 147, 148, 307 r/w 34 (2 counts), 302 r/w 34 and 324 r/w 34 (2<br>counts) IPC              |

(vii) When questioned, the accused pleaded 'not guilty'. To prove the case, the prosecution examined 21 witnesses and marked 34 exhibits and 8 material objects. Court exhibit Ex.X1 was also marked. 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.

(viii) By judgment dated 14.03.2024, the Trial Court found the accused A1 to A5 guilty for the offences under Sections 147, 148, 307 r/w 34, 302 r/w 34 IPC. A1 and A4 were found guilty for the offences under Sections 307 r/w 34 (2<sup>nd</sup> count) and 323 (2 counts) IPC. The Trial Court convicted and sentenced the accused persons as follows:



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| Accused  | Section of law                         | Sentence of Imprisonment         | Fine amount                                                      |
|----------|----------------------------------------|----------------------------------|------------------------------------------------------------------|
| A1 to A5 | 302 r/w 34 IPC                         | Life imprisonment                | Rs.5000/- in default to undergo one year rigorous imprisonment   |
|          | 307 r/w 34 IPC                         | 10 years rigorous imprisonment   | Rs.3000/- in default to undergo six months rigorous imprisonment |
|          | 148 IPC                                | One year rigorous imprisonment   | -                                                                |
| A1 & A4  | 307 r/w 34 IPC (2 <sup>nd</sup> count) | 10 years rigorous imprisonment   | Rs.3000/- in default to undergo six months rigorous imprisonment |
|          | 323 IPC (2 counts)                     | Six months rigorous imprisonment | -                                                                |

A1 was acquitted of the charge under Section 4 of TNPHW Act. Sentences were ordered to run concurrently and the period of incarceration already undergone by the accused was ordered to be set off under Section 428 Cr.P.C.

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2. Challenging the said conviction and sentence, A2, A5 & A4 have filed Crl.A. (MD).Nos.302 and 345 of 2024 and pending appeal, they have filed the present Criminal Miscellaneous Petitions seeking for suspension of sentence.

3. The learned counsel for the petitioners would submit that even as per the case of the prosecution, the alleged occurrence is said to have happened during a quarrel between the accused party and the deceased regarding a pathway dispute. He further submitted that the trial Court has failed to taking into consideration the doubt regarding Ex.P1-complaint. P.W.1, who is said to have given a complaint Ex.P1, has deposed before the Court that he came to know about the death of the deceased only on the next day, whereas, in the complaint Ex.P.1 the death of the deceased has been mentioned. Further, there are several doubts with regard to the scribe of the complaint Ex.P1. The learned counsel for the petitioners further submitted that admittedly even as per the prosecution, the assault said to have taken place during the quarrel and absolutely there is no intention on the part of the petitioners to commit the murder. The petitioners were on bail during trial and they have not misused the liberty granted to him. Hence, the learned counsel seeks for grant of suspension of sentence.

4. The respondent has filed a detailed counter. The learned Additional Public Prosecutor appearing for the respondent would submit that there was a dispute



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between the accused party and the deceased relating to providing electricity connection in a disputed pathway, due to which, the accused No.3 along with other accused have joined together and assaulted the deceased with a handle of shovel and the other accused have assaulted him. A2 had assaulted the deceased with iron rod and after the deceased fell down, the other accused stamped on his chest and hip resulting in various internal injuries and he was taken to the hospital, where he was declared as 'brought dead'. Hence, the learned Additional Public Prosecutor objected for grant of suspension of sentence and prayed for dismissal of the application.

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

6. Taking into consideration the overt act attributed against him, this Court is inclined to grant suspension of sentence to the petitioners.

7. Accordingly, these petitions are allowed and the substantive sentence of imprisonment alone imposed on the petitioners is suspended, subject to the following conditions:

- 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 Judicial Magistrate No.1,



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Nagercoil.

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 petitioners shall report before the learned Judicial Magistrate No.1, Nagercoil in the first working day 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/-  
24/07/2024

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24/07/2024  
Sub-Assistant Registrar ( C.O )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

AM  
TO

1 THE ADDITIONAL SESSIONS JUDGE (FAST TRACK),  
KANYAKUMARI DISTRICT AT NAGERCOIL.

2 THE JUDICIAL MAGISTRATE NO.I,  
NAGERCOIL.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
KANYAKUMARI DISTRICT AT NAGERCOIL.



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4 THE SUPERINTENDENT,  
CENTRAL PRISON, PALAYAMKOTTAI.

5 THE INSPECTOR OF POLICE  
KANYAKUMARI POLICE STATION,  
KANYAKUMARI

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

+1. C.C. to Mr.P.T.RAMESH RAJA, Advocate SR.No.8508 (I) DT.24/07/2024

+1. C.C. to Mr.C.K.M.APPAJI, Advocate SR.No.8473 (I) DT.24/07/2024

ORDER  
IN  
Crl.M.P.(MD) No.4256 of 2024  
in  
Crl.A.(MD) No.302 of 2024  
and  
Crl.M.P(MD)No.4482 of 2024  
in  
Crl.A(MD)No.345 of 2024  
Date :24/07/2024

SA/SAR. /24.07.2024/11P/9C

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