



CRL MP(MD) No.4560 of 2024

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

Friday, the Second day of August Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
and

The Hon`ble Mr.Justice K. RAJASEKAR
CRL MP(MD) No.4560 of 2024

in
CRL A(MD) No.355 of 2024

1 IJAZ AHAMED
2 MOHAMED JALALUDEEN

... APPELLANTS/PETITIONERS

Vs

THE INSPECTOR OF POLICE
THIRUVIDAIMARUTHUR POLICE STATION,
THANJAVUR DISTRICT
(CRIME NO.3/2019)

... 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 sentence imposed in SC No.136/2019 on the file of the Learned Additional District and Sessions Judge, Fast Track Court, Kumbakonam, Thanjavur District dated 21/3/2024 and enlarge the petitioner/appellant on bail pending disposal of main Criminal Appeal.

Prayer in CRL A(MD) No.355 of 2024 :

To set aside the Judgment and Conviction dated 21.03.2024 by the Learned Additional District and Sessions Judge, Fast Track Court, Kumbakonam in S.C.No.136 of 2019 and acquit the Appellants.

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.M.KARUNANITHI, Advocate for the petitioners and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-



CRL MP(MD) No.4560 of 2024

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

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Seeking to suspend the sentence imposed on the petitioners by the learned Additional District and Sessions Judge, Fast Track Court, Kumbakonam, vide Judgment dated 21.03.2024 in S.C.No.136 of 2019, they have filed this criminal miscellaneous petition.

2. The petitioners stand convicted and sentenced as under:

Accused	Section of Law	Sentence of imprisonment	Fine amount
A1 & A2	120B I.P.C.	To undergo two years rigorous imprisonment each	Rs1,000/- each, in default to undergo six months rigorous imprisonment each.
A1 & A2	364 I.P.C.	To undergo ten years rigorous imprisonment each	Rs1,000/- each, in default to undergo one year simple imprisonment each.
A1 & A2	201 I.P.C.	To undergo three years rigorous imprisonment each	Rs1,000/- each, in default to undergo one year rigorous imprisonment each.
A1	302 I.P.C.	To undergo life imprisonment	Rs10,000/-, in default to undergo one year rigorous imprisonment.



CRL MP(MD) No.4560 of 2024

A2	302 r/w 34 I.P.C.	To undergo life imprisonment	Rs10,000/-, in default to undergo one year rigorous imprisonment.
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3. The case of the prosecution is that A1 / first petitioner herein and the deceased were friends. The deceased was studying in AVC College, Mayiladuthurai and A1 was studying in Infant Jesus College, Trichy. While A1 was studying, he loved a girl and shared her photo in Instagram. The deceased morphed her photo in his cellphone as if he is with that girl and sent it to A1. On seeing this, A1 got angered and warned the deceased, however, the deceased did not take care of it. While that being so, on 04.01.2019 at evening hours, the deceased went to see A1. At that time, A1, along with A2 / second petitioner herein, with an intention to kill the deceased, brought the deceased to a coconut grove, at about 07.45 p.m., where A2 closed the eyes of the deceased and A1 tied the deceased with a blue colour nylon tape and when the deceased relaxed his body and took his head back, A1 cut on the neck of the deceased with a knife and when the deceased tried to catch A1, he was again cut by A1 on his left side neck. A1 and A2 hold the hands of the deceased and dragged him and when the deceased tried to get up with the injuries, A1 pushed him down and cut on his left side head indiscriminately.

4. Learned counsel for the petitioners would submit that the entire prosecution



CRL MP(MD) No.4560 of 2024

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case rests on the extra-judicial confession said to have been recorded in the presence of P.W.12 – Village Administrative Officer. However, P.W.12 had not supported the prosecution case. He would further submit that there are several arguable points in favour of the petitioners and the likelihood of the appeal being taken up for final hearing in the near future is also not possible and therefore, he prayed for suspension of sentence.

5. Learned Additional Public Prosecutor appearing for the respondent – Police would submit that apart from the extra judicial confession, the Trial Court has also found a finger print in M.O.1, blue colour Johnson Tape, which tallied with the finger print of A1. M.O.1 was recovered from the scene of occurrence and thereby, he prayed for dismissal of this suspension of sentence application.

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

7. Having gone through the records and taking into consideration the facts and circumstances of the case that the case on hand is based on the circumstantial evidence and extra judicial confession and the Village Administrative Officer (P.W.12), who is the witness to the extra judicial confession, has not supported the prosecution case, we are of the opinion that it is a fit case for grant of suspension of sentence to the petitioners.



CRL MP(MD) No.4560 of 2024

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8. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment alone imposed on the petitioners herein is suspended, subject to the following conditions:

i. The petitioners are directed to be enlarged on bail on each of them executing a bond for Rs.25,000/- (Rupees twenty five thousand only) 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, Kumbakonam.

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 passbook to ensure their identity.

iii. The petitioners shall stay at Salem and report before the Inspector of Police, Fair Land Police Station, Salem, daily at 10.30 a.m. 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/-

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02/08/2024

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



CRL MP(MD) No.4560 of 2024

TO

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1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, FAST TRACK COURT,
KUMBAKONAM, THANJAVUR DISTRICT.

2 THE INSPECTOR OF POLICE, THIRUVIDAIMARUTHUR POLICE STATION,
THANJAVUR DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

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

COPY TO

THE INSPECTOR OF POLICE, FAIR LAND POLICE STATION, SALEM.

ORDER IN
CRL MP(MD) No.4560 of 2024
in CRL A(MD) No.355 of 2024
Date :02/08/2024

RS//SAR-(02.08.2024) 6P 6C

Madurai Bench of Madras High Court is issuing
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