



CRL.M.P.(MD)No.4586 of 2024

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

Monday, the Second 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.4586 of 2024
in
CRL.A.(MD)No.878 of 2023

1 PARTHIBAN @ LOGARAJ

2 GOWTHAM @ GOWTHAMAN

... PETITIONERS/ APPELLANTS/
ACCUSED 1 & 2

Vs

THE INSPECTOR OF POLICE
VELLIYANAI POLICE STATION,
KARUR DISTRICT.
(IN CRIME NO.189 OF 2020)

... 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 imposed against us in the Learned Principal Sessions Court cum District Court, Karur in S.C.No.38 of 2020 dt.12.07.2023 and release us on bail till the disposal of the main appeal.

Prayer in CRL.A.(MD)No.878 of 2023:

Pleased to call for the entire records connected to the judgment in S.C.No.38 of 2020 on the file of the Hon'ble Principal Sessions Court cum District Court, Karur dated 12.07.2023 and set aside the conviction and sentence imposed against the

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appellant.

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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.DHILIPAN PANDIAN R L, 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 A1 and A2 in S.C.No.38 of 2020, in which, the trial was conducted by the Principal District and Sessions Court, Karur, who had been convicted by judgment, dated 12.07.2023, as follows :

Offences	Conviction and Sentences to undergo Imprisonment	Fine	Default Imprisonment
449 IPC	Three years rigorous imprisonment	Rs.1,000/-	Three months imprisonment
302 r/w 34 IPC	Life imprisonment	Rs.10,000/-	One year imprisonment
302 r/w 34 IPC	Life imprisonment	Rs.10,000/-	One year imprisonment
506(ii) IPC	Three years rigorous imprisonment	Rs.1,000/-	Three months imprisonment

seeking suspension of sentence.

2. It is the case of the prosecution that the present petitioners, are both

brothers and first cousins of the first deceased. The second deceased is the wife of the

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first deceased. Prosecution had examined as eyewitnesses, P.W.1, brother of the first deceased, P.W.2 brother of the second deceased and P.W.3, daughter of the two deceased. The names of these two deceased were mentioned in the First Information Report. There is one more accused who is another brother of these two accused, who is still absconding. The Court of Sessions had split up the case as against that particular accused.

3. The learned counsel for the petitioners stated that the prosecution had examined 13 witnesses. P.W.11 is the Sub Inspector of Police who registered the FIR and P.W.12 and P.W.13 are both Deputy Superintendents of Police who were the Investigating Officers.

4. The learned counsel for the petitioners stated that the petitioners had examined as D.W.1, the Official from the Dog Squad and stated that a Police dog was taken to the scene of crime even at around 9.30 p.m. on 11.05.2020 though the FIR was registered at 10.00 p.m. The incident was said to have occurred on 8.30 p.m. He therefore, pointed out the improbability of the Police dog being taken to the scene of crime at 9.30 p.m., even before the registration of the First Information Report.

5. The learned counsel also pointed out the evidence of P.W.12 the Deputy Superintendent of Police, who was directed to investigate the case under the directions of the Superintendent of Police and who took up investigation at around



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11.00 p.m., on the very same night.

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6. The learned Additional Public Prosecutor however, brought to the notice of this Court the further evidence of D.W.1 wherein, he had stated as follows:

“சம்பவ இடத்திற்கு சென்ற நேரம் 22.15 என
பதிவு செய்யப்பட்டுள்ளது.”

A rough transaction is that it had been recorded that the time of going to the scene of crime was 22.15 hrs (10.15 p.m.)

7. The respondents would have received information about the gruesome murder and immediately thereafter, to catch hold of the accused, had alerted the Dog Squad. Investigation had clearly pointed out the role of these two accused in the commission of the crime. The evidence of the eyewitnesses had not been shattered during cross examination and there is one more accused, who is absconding. This leads to a strong possibility of the present two accused also absconding following the footsteps of their own brother, who is the third accused.

8. We find no reason to grant suspension of sentence, particularly, taking into consideration the gruesome nature of the murder and also more particularly, the fact that P.W.3 is the minor daughter, who was aged just about 4 years at the time of incident and 7 years at the time of deposing evidence. Her safety will have to be now protected, since the entire murder took place owing to dispute over property dispute

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and that the dispute will now continue with the daughter having inherited the same as both her parents were murdered in front of her eyes. She is now in an extremely vulnerable situation.

9. Accordingly, the Criminal Miscellaneous Petition stands dismissed.

sd/-
02/09/2024

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

RM
TO

1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
KARUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

3 THE INSPECTOR OF POLICE
VELLIYANAI POLICE STATION,
KARUR DISTRICT.

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

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ORDER
IN
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in
CRL.A.(MD)No.878 of 2023
Date :02/09/2024

SA/GS/SAR. /11.09.2024/6P/5C

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