



CRL MP(MD) No.4497 of 2024

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

Thursday, the First 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.4497 of 2024
in
CRL A(MD) No.348 of 2024

1 RANI

2 HEBSI

... Petitioners / Appellant

Vs

THE INSPECTOR OF POLICE
KALIAKKAVILAI POLICE STATION,
KANNIYAKUMARI DISTRICT.
(CRIME NO 377/2007)

... Respondent / Respondent

Criminal Miscelalaneous 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 by Principal Sessions court, Kanyakumari at Nagercoil in S.C no. 101 of 2009 dt. 09.02.2024 and enlarge petitioners on bail pending disposal of the criminal appeal.

Prayer in CRL A(MD) No.348 of 2024:

To call for the records relating to the impugned judgment of conviction passed by Principal Sessions Court Kanyakumari at Nagercoil in S.C.No.101 of 2009 dated 09.02.2024 and set aside the same and acquit the appellants / 5th and 6th accused from the charges frames against him.



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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 M/s.A.BALAKRISHNAN, Advocate for the petitioners and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

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

The present petition is filed by the appellants/ A5 and A6 seeking to suspend the sentence imposed on them by the learned Principal Sessions Judge, Kanyakumari at Nagercoil in S.C.No.101 of 2009 dated 09.02.2024.

2. The petitioners/accused are convicted and sentenced by the Trial Court as follows:

Accused	Section of law	Sentence of Imprisonment	Fine amount
A2, A3, A5 & A6	148 IPC	3 years rigorous imprisonment	Rs.3000/- each in default to undergo 1 month simple imprisonment
	324 r/w 149 IPC	3 years rigorous imprisonment	Rs.3000/- each in default to undergo 1 month simple imprisonment
	302 r/w 149 IPC	Life imprisonment	Rs.5000/- each in default to undergo 2 months simple imprisonment
	506(ii) r/w 149 IPC	3 years rigorous imprisonment	-



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Charges against A1 and A4 are abated since they died during the pendency of the case. A2, A3, A5 and A6 were acquitted of the charge under Section 307 r/w 149 IPC.

3. The case of the prosecution is that A1 Robert had earlier been convicted for committing the murder of the father of the deceased. Fearing that the deceased and his brothers might cause trouble to him, A1 was threatening the deceased. While so, on 11.08.2007 at about 6.00 AM, while the deceased Rajini and his brother Reegan (P.W.4) were standing near Retnam shop, P.W.1 Sunil @ Justin, who is the cousin of the deceased Rajini came towards them. At that time, A1 Robert armed with vettukathi, A2 Raju armed with knife, A3 Rajesh armed with pitchuvakathi, A4 Kumar @ Rajakumar armed with knife, A5 Rani and A6 Hepsi armed with stone tiles, unlawfully assembled and attempted to do away with the deceased and P.W.1. A4 stabbed P.W.1, thereby, causing injury on the right back side of his shoulder and A2 stabbed the deceased Rajini with knife causing injury on his back. A1 assaulted the deceased Rajini with vettukathi causing injury on his right knee. A5 Rani and A6 Hepsi assaulted P.W.1 and the deceased with stone tiles and A4 threatened Rajan, another brother of the deceased. The deceased and P.W.1 were taken to the Government Hospital and the deceased was referred to Medical College Hospital, Asaripallam and he was declared as 'brought dead'. Thereby, the accused had



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committed the offences punishable under Sections 147, 148, 149, 324, 307 and 302

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IPC r/w 34 IPC.

4. The learned counsel for the petitioners/A5 and A6 would submit that petitioners are ladies. The alleged occurrence is said to have happened during an altercation and the entire family members are falsely roped in this case. Even as per the prosecution, in the said occurrence, the petitioners herein are alleged to have hurled broken tiles on the deceased and P.W.1. Major overt acts are attributed against the other accused and the petitioners herein have not caused any fatal injuries to the deceased. He would also submit that the petitioners do not have any bad antecedents and that they were on bail during trial and they have not misused the liberty granted to them. The learned counsel would also submit that the petitioners are in custody from the date of conviction and hence, he seeks for indulgence of this Court.

5. The respondent has filed a counter.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that the accused persons due to previous enmity had assaulted the deceased and P.W.1 with deadly weapons and committed the murder of the deceased. The Trial Court had rightly appreciated the evidence placed on record and convicted the accused. Hence, he would object for grant of suspension of sentence.



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

8. Having gone through the records, it is seen that major overt acts are attributed against the other accused and that the petitioners have not caused any fatal injuries to the deceased. Further, having regard to the fact that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also taking into consideration the facts and circumstances of the case, we are inclined to suspend the sentence imposed on the petitioners by the Trial Court pending the Appeal.

9. Accordingly, the Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment alone imposed on the petitioners/ A5 and A6 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 Principal Sessions Court, Kanyakumari at 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.



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iii. The petitioners shall appear before the Trial Court once in a month i.e., on the first working day of every English Calendar month at 10.30 a.m., until further orders.

sd/-
01/08/2024

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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.

LM

To

1.The Principal Sessions Judge,
Kanyakumari at Nagercoil.

2.The Inspector of Police,
Kaliakkavilai Police Station,
Kanniyakumari District.

3.The Superintendent,
Central Prison for Women, Madurai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.K.P.NARAYANA KUMAR, Advocate (SR-9282[I] dated 02/08/2024)



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ORDER

IN

CRL MP(MD) No.4497 of 2024

in

CRL A(MD) No.348 of 2024

Date :01/08/2024

ED/ /SAR- (02/08/2024) 7P / 6C

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