



CRL.M.P.(MD)No.4646 of 2024

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

Monday, the Twenty First day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice C.V.KARTHIKEYAN
and
The Hon`ble Ms.Justice R. POORNIMA

CRL.M.P.(MD)No.4646 of 2024
in
CRL.A.(MD)No.91 of 2024

YESU BALAN

... PETITIONER/ APPELLANT/
ACCUSED NO.4/ ACCUSED NO.4

Vs

THE INSPECTOR OF POLICE
KANYAKUMARI POLICE STATION,
KANYAKUMARI,
KANYAKUMARI DISTRICT.
(CRIME NO.925/2012).

... RESPONDENT/RESPONDENT/
COMPLAINANT/COMPLAINANT

Criminal 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 as imposed on the petitioner by the Honble Additional District and Sessions Court(Fast Track Court), Kanyakumari District at Nagercoil made in Sessions Case No.72/2013 dated 22/1/2024 forthwith and thereby enlarge the petitioner on bail, pending disposal of the above Criminal Appeal 91/2024.

Prayer in CRL.A.(MD)No.91 of 2024:

To allow the above appeal and consequently set aside the conviction and sentence as imposed on him by the Honb'le Additional District Sessions Court (Fast

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



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Track Court), Kanyakumari District at Nagercoil in Sessions Case No.72 of 2013 dated 22.01.2024 on its file forthwith.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.S.PALANIVELAYUTHAM, Advocate for the petitioner and of MR.T.SENTHIL KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The 4th accused, in S.C.No.72 of 2013 on the file of the Additional District and Sessions Court / Fast Track Court, Kanyakumari District at Nagercoil, who was convicted for the offence under Section 341 IPC and sentenced to undergo two weeks rigorous imprisonment and also convicted for the offence under Section 302 IPC and sentenced to undergo life imprisonment and to pay fine of Rs.2,000/-, in default to undergo rigorous imprisonment for one month, by judgment of the learned trial Judge dated 22.01.2024, has filed the present application seeking suspension of sentence.

2. There were totally four accused in the trial. All of them were brothers. During the pendency of the trial, A1, A2 and A3 died and charges against them abated. It is the case of the prosecution that there was enmity between the accused and the deceased on the other hand owing to payment of amount collected for the village temple festival. It is stated that on 21.08.2012, when the deceased came out of the



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TASMAC shop, A1 had hit him on the head with a broken a brandy bottle and A2 - A4 had sticks and they assaulted the deceased brutally. The nature of injuries was given in Ex.P9-postmortem certificate. On perusal of the same, it shows that injury Nos.1 and 2 had been on the right and left side of top of head of the deceased. The other injuries were on the upper end left ear and left side eye brow and right eye, and right side of lower jaw, right angle of mouth and right side of lower lip and left seek. Final opinion had been given by the Doctor, who had conducted postmortem and according to him, the deceased would have died of shock and haemorrhage due to head injuries. It is contended that the head injury Nos.1 and 2 were caused by A1, with a broken brandy bottle. This petitioner was having a stick in his hand and it is contended that he caused injuries on the right eye, lower jaw, lower lip, left eye and if independently examined, they could not have caused the death of the deceased. The charges against A1, A2 and A3 had also abated and the charges against this petitioner is under Section 302 I.P.C and there is no charge under Section 34 I.P.C to bring detached participation in the offence under the fold of conviction.

3. We have taken into consideration the fact that the incident took place in the year 2012, nearly 12 years previously, and there would have been substantial changes in the circumstances, as on date. In view of all these facts, we are inclined to entertain



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this petition and to suspend the sentence imposed against the petitioner.

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Accordingly, this petition is ordered and the imprisonment ordered by the trial Court through the impugned judgment is suspended subject to the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Additional District and Sessions Court / Fast Track Court, Kanyakumari District at Nagercoil;

(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 stay at Trichy District and shall appear before the Trichy Cantonment Police Station, Trichy, weekly once, ie., on every Saturday at 10.30 a.m., until further orders.

sd/-
21/10/2024

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21 /10/2024
Sub-Assistant Registrar (CS-III)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO
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1. THE ADDITIONAL DISTRICT AND SESSIONS COURT /
FAST TRACK COURT,
KANYAKUMARI DISTRICT AT NAGERCOIL,
2. THE INSPECTOR OF POLICE
KANYAKUMARI POLICE STATION,
KANYAKUMARI,
KANYAKUMARI DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE INSPECTOR OF POLICE,
TRICHY CANTONMENT POLICE STATION, TRICHY

+1 CC to M/s.S.PALANI VELAYUTHAM, Advocate (SR-12843[I] dated
21/10/2024)

ORDER
IN
CRL.M.P.(MD)No.4646 of 2024
in
CRL.A.(MD)No.91 of 2024
Date :21/10/2024

RK (21/10/2024) 5P / 7C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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