



CRL MP(MD) No.5811 of 2024

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

Wednesday, the Eighteenth 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) Nos.5811 and 5814 of 2024

in

Crl.A (MD) Nos.286 and 295 of 2024

ARUL YUJIN RAJA @ RAJA

... APPELLANT/ ACCUSED NO.2
IN CRL MP(MD).5811/2024

ARUL MICHAEL JOE @ DURAI

... APPELLANT/ ACCUSED NO.1
IN CRL MP(MD).5814/2024

Vs

THE INSPECTOR OF POLICE
ERANIEL POLICE STATION,
KANNIYAKUMARI DISTRICT.
CRIME NO.121/2012

... RESPONDENT/COMPLAINANT
IN BOTH CRL MP's

Prayer in CRL MP(MD)No.5811/2024 :

To Suspend the Sentence imposed on the petitioner/Accused No.2 Namely, Arul Yujin Raja @ Raja by the Honble learned Additional District and Sessions Judge, Padmanabapuram in S.C.NO.19 of 2013 dated 27.02.2024 and enlarge the petitioner/Accused No.2 on bail, pending disposal of the Criminal Appeal.

Prayer in CRL A(MD).286/2024 :

To allow the appeal and to call for the records and set aside the judgment and conviction of the lower court in S.C.No.19/2013 by the learned Additional District and Sessions Judge, Padmanabhapuram.

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



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Prayer in CRL MP(MD)No.5814/2024 :

To Suspend the Sentence imposed on the petitioner/Accused No.1 Namely, Arul Michael Joe @ Durai by the Hon'ble learned Additional District and Sessions Judge, Padmanabapuram in S.C.NO.19 of 2013 dated 27.02.2024 and enlarge the petitioner/Accused No.1 on bail, pending disposal of the Criminal Appeal.

Prayer in CRL A(MD).295/2024 :

To allow the appeal and to call for the records and set aside the judgment and conviction of the lower court in Sessions Case in S.C.No.19/2013 by the learned Additional District and Sessions Judge, Padmanabhapuram.

Common Order : These Criminal Miscellaneous Petitions coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.K.SUYAMBULINGABHARATHI, Advocate for the petitioner in CRL MP(MD).5811/2024 and MR.M.CHANDRA SEKARAN, Advocate for the petitioner in CRL MP(MD).5814/2024 and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent in both CRL MP's, the court made the following order:-

A1 had filed CrI.M.P (MD) No.5814 of 2024 in CrI.A. (MD) No.295 of 2024 and A2 had filed CrI.M.P (MD) No.5811 of 2024 in CrI. A. (MD) No.286 of 2024 both seeking suspension of execution of sentence imposed against them consequent to conviction in S.C.No.19 of 2013 by judgment dated 27.02.2024 by the learned Additional District and Sessions Court, Padmanabhapuram, Kanyakumari District.

2. Heard Mr.M.Chandrasekaran, the learned Counsel appearing for A1, who was also instructed to appear on behalf of A2 by the learned Counsel Mr.K.Suyambulingabharathi and also Mr.A.Thiruvadi Kumar, the learned Additional Public Prosecutor.

3. Both A1 and A2 had been convicted for commission of offences punishable



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under Sections 302 IPC and Section 506 (ii) IPC and had been sentenced to life imprisonment for offence under Section 302 IPC and fine of Rs.5,000/- in default further imprisonment of one year RI and sentenced for offence under Section 506 (ii) IPC with two years RI and fine of Rs.1,000/- in default simple imprisonment for one month.

4. It is the case of prosecution that P.W.4 is a construction contractor at Bengaluru. Both A1 and A2 who are brothers were masons who had been working on contract under P.W.4 at Bengaluru. They had received as advance a sum of Rs.10,460/- but they had not worked for that amount. They had returned back to their native Mukkalampadu Village at Kanyakumari District. It was expected that they should put their hard toil for a further amount of Rs.5,500/- or, return back the said amount. There was a demand for return of said amount.

5. It is contended that the sister of A1 and A2 had telephoned P.W.4 and asked him to come over to receive the money. This was on 28.02.2021. P.W.4 in turn conveyed this information to P.W.1, who is his brother's son, to go over to the house of the accused and collect the money. P.W.1 was accompanied by P.W.2 and the deceased Sekar, who is a stranger to the entire contract work, to P.W.4 the contractor and to the accused. They initially could not find the way to the house of A1 and A2. They then contacted P.W.4, who gave P.W.1 another number and said that if that



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number is contacted, the direction to the house of the accused will be informed.

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Thereafter, P.W.1 contacted that particular number. Then all three of them finally found the way to the house of accused and they reached the house of the accused. Both A1 and A2 came out. A1 was having a knife and A2 was having an Aruval. They assaulted not P.W.1 who is directly related to P.W.4 but the stranger Sekar, who died at the spot.

6. We find that there was no premeditated motive for the assault and that there are no previous cases as against A1 and A2. They were also on bail during the course of trial. It is also to be noted that test identification parade had not been done but A1 and A2 had been identified during the Court proceedings. The veracity of the same would be a matter for argument during the hearing of the appeal.

7. It is also seen from the records that P.W.1 and P.W.2 left the motorcycle in which they had come and walked all the way to Eraniel Police Station to lodge the complaint. Taking all factors into consideration, particularly the fact that the deceased had no direct connection to the accused and that the accused had no direct motive as against the deceased and that the deceased had a chance presence at that place, we are inclined to suspend the execution of sentence alone on the following conditions:

(i) The petitioners shall execute a bond each for a sum of

Rs.25,000/-, with two sureties, of whom, one should be a blood relative,



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each for a like sum to the satisfaction of the learned Additional District and Sessions Judge, Padmanabhapuram at Kanyakumari District;

(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 and mobile number to ensure their identity; and

(iii) The petitioners shall appear before the concerned Court on the first working day of every English calendar month at 10.30 a.m. until further orders and if any one of them is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-

18/09/2024

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18/09/2024

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

PKN

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PADMANABHAPURAM, KANYAKUMARI DISTRICT.



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2 THE INSPECTOR OF POLICE, ERANIEL POLICE STATION,
KANNIYAKUMARI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

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

+1 CC TO MR.K.SUYAMBULINGA BHARATHI, ADVOCATE, SR-11399[I] DATED
19/09/2024

ORDER
IN
Crl.M.P.(MD) Nos.5811 and 5814 of 2024
in
Crl.A (MD) Nos.286 and 295 of 2024
Date :18/09/2024

RS//SAR-(18.09.2024) 6P 6C
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