



CRL MP(MD) No.7737 of 2023

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

Wednesday, the Twenty Sixth day of June 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.7737 of 2023
in
CRL A(MD) No.418 of 2023

SUMAN

... Petitioner / Appellant / Sole Accused

Vs

THE INSPECTOR OF POLICE
AMATHUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.180/2017).

... Respondent / 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 on the petitioner/appellant/sole accused namely suman, S/o.Ganeshalingam passed by the learned Additional District and Sessions Judge, Virudhunagar in SC.NO.149 of 2017 dated 28.09.2022 and enlarge the petitioner on bail pending disposal of the criminal appeal.

Prayer in CRL A(MD) No.418 of 2023:

To call for the records of the impugned judgment made in SC No.149 of 2017 on the file of the learned Additional District and Sessions Judge, Virudhunagar dated 28.09.2022 and set aside the same.

Order : This criminal miscellaneous petition coming up for orders on this day,



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upon perusing the petition filed in support thereof and upon hearing the arguments of M/S. JEGADEESH PANDIAN.M, Advocate for the petitioner 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 has been filed by the appellant/accused to suspend the sentence imposed on him by the learned Additional District and Sessions Judge, Virudhunagar in SC.No.149 of 2017.

2. The petitioner stands convicted and sentenced as under:

Section of Law	Sentence of imprisonment	Fine amount
302 I.P.C.	To undergo life imprisonment	Rs.1000/- in default to undergo six months rigorous imprisonment
The sentences shall run concurrently		

3. The case of the prosecution is that prior to the occurrence, the money kept by the deceased in his house was found missing and he told P.W. 1 and P.W. 2 about the missing of money and that the accused used to visit the house of the deceased. Suspecting him the deceased scolded the accused, for which the accused told P.W.1 and P.W. 2 that the deceased was speaking ill about him and he would kill him. Thereafter on 09.05.2017 at about 9.30 pm., when P.W.1 and P.W.2 were



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taking food for the deceased, P.W.3 also accompanied them and when they reached the house of the deceased they heard unusual sound of the deceased and found the accused sitting in the chest of the deceased and pressing the neck of the deceased. On seeing P.W.1 and P.W.2 the accused ran away and thereafter P.W.1 and P.W.2 took the deceased to the Thangavel Hospital, Thiruthangal in an autorickshaw and there the doctor examined the deceased and he asked them to go to Government hospital and thereafter he was taken to Government Hospital, where the doctor declared him dead.

4. Learned counsel appearing for the petitioner would submit that in this case P.W.1 to P.W.7 are stated to be the eye witnesses to the occurrence. Excepting P.W. 1 and P.W.2 who are interested witnesses all other witnesses have turned hostile and they have not supported the case of prosecution. Further P.W.3 and P.W.8 who are stated to be witnesses to the motive have also not supported the case of prosecution. The victim was alleged to be taken to the hospital immediately after the occurrence and the doctor who has examined the deceased/victim has not noted any external injuries on the body of the deceased and the deceased is aged about 77 years. Further even as per the prosecution no weapon has been used in the commission of offence. He would also submit that the petitioner is in custody from the date of judgment hence he seeks for indulgence of this court.



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5. The respondent has filed detailed counter. Learned Additional Public Prosecutor appearing for the respondent, on instructions, would submit that the deceased and the accused are Srilankan refugees. The deceased suspecting that the accused is the person who has committed theft of his cash had informed to his son. The accused coming to know of the same had gone to the house of the deceased and threatened him, pursuant to the same, on 09.05.2017 at about 9.30 pm., the accused entered into the house of the deceased and sat on the chest of the deceased and strangled his neck and committed the murder. Though P.W.3 and 8 have not supported the case of prosecution the evidence of P.W.1 and P.W.2 is clinching and they have spoken about the manner in which the offence had been committed by the accused, thereby he would vehemently oppose for grant of bail to the petitioner.

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

7. In this case the deceased is about 77 years and the deceased and the petitioner are Srilankan refugees. Due to financial transaction the accused said to have committed the murder by strangulation. Further no weapon has been used during the occurrence. 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 considering the period of incarceration and also



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taking into consideration the facts and circumstances of the case, we are inclined to suspend the sentence imposed on the petitioner by the Trial Court pending the Appeal.

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

- i. The petitioner is directed to be enlarged on bail on 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 Judicial Magistrate No.II, Virudhunagar
- 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.
- iii. The petitioner shall stay at Special Camp for Srilankan refugees at Mandapam, Ramanathapuram District and report before the Inspector of Police, Mandapam Police Station on every Saturday at 10.30 am., until further orders.



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iv. It is made clear that the petitioner shall not enter into the jurisdictional limits of the respondent Police Station until further orders.

sd/-
26/06/2024

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28/06/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

To

1.The Judicial Magistrate No.II,
Virudhunagar.

2.Do through the Chief Judicial Magistrate,
Virudhunagar District at Srivilliputhur.

3.The Inspector of Police,
Amathur Police Station,
Virudhunagar District.

4.The Superintendent,
Central Prison,
Madurai.

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



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Copy to:

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1.The Officer Incharge,
Special Camp for Srilankan Refugees,
Mandapam, Ramanathapuram District.

2.The Inspector of Police,
Mandapam Police Station,
Ramanathapuram District.

+1 CC to M/s.M.JEGADEESH PANDIAN, Advocate (SR-7118[I] dated
28/06/2024)

ORDER
IN
CRL MP(MD) No.7737 of 2023
in
CRL A(MD) No.418 of 2023
Date :26/06/2024

ED/ /SAR- (28/06/2024) 7P / 9C

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