



CRL MP(MD) No.7556 of 2023

WEB COPY

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

Wednesday, the Thirty First day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.7556 of 2023

IN

CRL A(MD) No.191 of 2023

1 T.SELVAKUMAR

2 S.PADMA @ PADMAVATHI

... APPELLANTS/ ACCUSED 1 & 2

Vs

1 THE DEPUTY SUPERINTENDENT OF POLICE,
KANYAKUMARI SUB DIVISION,
THENTHAMARAikulam POLICE STATION,
KANYAKUMARI DISTRICT.
CRIME NO.106 OF 2015.

2 ANANTH

... RESPONDENTS/COMPLAINANTS

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 and grant bail to the Appellants/Accused Nos.1 and 2 against the Judgment dt.24.2.2023 in SC.No.137 of 2015 on the file of the II Additional District and Sessions Judge(PCR),Tirunelveli in Cr.No.106 of 2015 on the file the Respondent Police pending disposal of the Criminal Appeal No.191 of 2023 on such terms and conditions as may be deemed fit.

PRAYER IN CRL.A(MD).191/2023:

Pleased to call for the records of the Judgment dated 24.02.2023 in S.C.No.137 of 2015 on the file of the II Additional District and Sessions Judge(PCR) Tirunelveli in

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



CRL MP(MD) No.7556 of 2023

Crime No.106 of 2015 on the file the Respondent Police and set aside the same and Acquit the Appellants/ Accused no.1 & 2.

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.S.RAJASEKAR, Advocate for M/S.LAJAPATHY ROY AND ASSOCIATES, for the petitioner and of Mr.A.THIRUVADIKUMAR, Additional Public Prosecutor on behalf of the 1st Respondent, the court made the following order:-

The petitioners have filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on them by the learned II Additional District and Sessions Judge (PCR), Tirunelveli, in Spl.S.C.No.137 of 2015 dated 24.02.2023 and to enlarge them on bail, pending disposal of the Criminal Appeal.

2. It is submitted by the learned counsel for the petitioners that a case has been registered against the petitioners in Crime No.106 of 2015 on the file of the first respondent Police, for the offences punishable under Sections 341, 294(b), 326, 307, 506(ii), 352 of IPC and Section 3(2)(v), 3(1)(x) of SC/ST (POA) Act and the same was taken on file in Spl.S.C.No.137 of 2015 before the learned II Additional District and Sessions Judge (PCR), Tirunelveli. The trial Court convicting the first petitioner for the offence under Sections 341, 307 (2 counts) IPC and convicting the second petitioner for the offence under Sections 341, 307 IPC r/w 34 of IPC (2 counts) and both of them were sentenced to undergo one month simple imprisonment and to pay a fine of Rs.500/- in default, to undergo one week simple imprisonment for the



CRL MP(MD) No.7556 of 2023

WEB COPY

offence* under Section 341 IPC and sentenced to undergo five years rigorous imprisonment each and to pay a fine of Rs.1,000/- in default, to undergo six months simple imprisonment for the offence under Section 307 IPC(2counts). Challenging the above said conviction, the petitioners have preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioners submitted that the petitioners and the family of P.W.1 were residing in the same colony and the aforesaid case has been registered against the petitioners with evil motive and the petitioners were not involved in any offence as alleged by the prosecution and the trial Court has failed to appreciate the evidence in proper perspective and imposed the conviction mechanically and therefore, the learned counsel prays for suspending the sentence imposed on the petitioners. He further submitted that the petitioners are in judicial custody for the past 11 months.

4. Per contra, Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor submitted that the petitioners had attacked P.W.1 and P.W.3 with sickle and stones and both of them had sustained injuries and the Medical Officer has deposed about the nature of injuries sustained by them and hence, he strongly opposed to grant suspension of sentence to the petitioners.

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



CRL MP(MD) No.7556 of 2023

on record.

WEB COPY

6. This Court finds force in the submission of the learned counsel for the petitioners. Considering the facts and circumstances of the case and also taking note of the fact that the petitioners have been in incarceration from 24.02.2023, this Court prima facie feels that that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioners herein are entitled to the relief of grant of suspension of sentence.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned II Additional District and Sessions Judge (PCR), Tirunelveli, in Spl.S.C.No.137 of 2015 dated 24.02.2023 alone is suspended, subject to the following conditions:-

i) The petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned II Additional District and Sessions Judge (PCR), Tirunelveli.

ii) The petitioners shall appear and sign before the learned II Additional District and Sessions Judge (PCR), Tirunelveli, on the first working day of every English calender month at 10.30 a.m., until further



CRL MP(MD) No.7556 of 2023

orders.

WEB COPY

iii) In case, if the petitioners are unable to appear before the Court on the first working day of a month, they shall appear on the next working day.

iv) The petitioners shall furnish their residential address and mobile number to the Trial Court ie., learned II Additional District and Sessions Judge (PCR), Tirunelveli.

8. Subject to the above conditions, this Petition is allowed.

sd/-
31/01/2024

/ TRUE COPY /

01/02/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM
TO

1 THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE (PCR),
TIRUNELVELI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI, TIRUNELVELI.

3 THE SUPERINTENDENT,
CENTRAL PRISON (WOMEN), MADURAI.

4 THE DEPUTY SUPERINTENDENT OF POLICE,
KANYAKUMARI SUB DIVISION,
THENTHAMARAikulam POLICE STATION, KANYAKUMARI DISTRICT.

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



CRL MP(MD) No.7556 of 2023

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

+2 CC to M/s.S.RAJASEKAR, Advocate (SR-1258[I] dated 31/01/2024)

ORDER IN
CRL MP(MD) No.7556 of 2023
IN CRL A(MD) No.191 of 2023
Date :31/01/2024

SA/SAR. /01.02.2024/6P/8C

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