



CRL MP(MD) No.10130 of 2023

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

Friday, the Twenty Eighth 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.10130 of 2023
in
CRL A(MD) No.469 of 2023

ANANDARAJ

... Petitioner / Appellant

Vs

THE INSPECTOR OF POLICE
ANDIPATTI POLICE STATION,
ANDIPATTI,
THENI DISTRICT.
(CRIME NO. 668 OF 2018).

... Respondent / Respondent

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 by the learned Additional District and Sessions Court, Theni at Periyakulam, Theni District in S.C.No.80 of 2019 by the Judgment dated 25.04.2023 and enlarge the petitioner on bail pending disposal of the above appeal.

Prayer in CRL A(MD) No.469 of 2023:

To call for records and allow this appeal and set aside the judgment dated 25.04.2023 passed by the Additional District and Sessions Court, Theni at Periyakulam, Theni District in S.C.No.80 of 2019 and acquit the appellant.



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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 Mr.KARUPPASAMY PANDIAN, Advocate for M/s.K.DINESH, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Addiional 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 case of the prosecution is as follows:

(i) The deceased is the son of P.W.1 and P.W.5. The deceased had joined Diploma Course at Bharat Niketan Polytechnic, however, since, he was not interested to study, he had discontinued the course. Thereafter, he was without any job and he used to consume liquor along with his friends. When that being so, while the deceased was consuming liquor along with his friends near Kottai Karuppasamy Temple, Vaigai Dam Road, there was a quarrel between him and the accused herein, thereby, there was enmity between them. Hence, P.W.1 sent the deceased to Coimbatore for driver job.

(ii) Four days prior to the occurrence, the deceased came to Aundipatti. On 15.10.2018, at about 10.00 p.m., while the deceased was standing in front of Sarala Grocery Shop at Pappamalpuram, the accused, who came there, on seeing the deceased, due to previous



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enmity, had scolded him with filthy language and quarrelled with him and stabbed him with a Knife (M.O.1) on his right chest, stomach and back. Due to the injuries sustained, the deceased fell down unconscious and he was taken to Aundipatty Government Hospital, where he was given first aid and referred to Ka.Vilakku Government Medical College and Hospital, Theni, for further treatment.

(iii) On the information received from the Government Medical College and Hospital, Theni, the P.W.20 went to Hospital and found the deceased unconscious. Therefore, he received a complaint (Ex.P1) from the father of the deceased (P.W.1) and registered a case in Crime No.668 of 2018. On 22.10.2018, at about 06.30 p.m., while the deceased was under treatment, he succumbed to his injuries.

(iv) P.W.21, Investigating Officer, after altering the sections of law and conducting investigation and examining witnesses, filed the final report in in P.R.C.No.3 of 2019, before the learned Judicial Magistrate, Aundipatti, under Sections 294(b) and 302 I.P.C., against the accused.

(v) On appearance of the accused, the provisions of Section 207 of the Code of Criminal Procedure were complied with and the



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case was committed to the Court of Sessions, Theni, in S.C.No.80 of 2019 and was made over to the Additional District and Sessions Court, Theni at Periyakulam, for trial.

(vi) The Trial Court, after hearing the accused, framed two charges against him, as detailed below:

Charge	Penal Provisions
1.	294(b) I.P.C.
2.	302 I.P.C.

(vii) When questioned, the accused pleaded "not guilty". To prove the case, the prosecution examined 21 witnesses and marked 19 exhibits and 01 material object. When the accused was questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against him, he denied the same and did not come forward to give any plausible explanation. No witness was examined from the side of the accused nor any document marked.



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(viii) By judgment and order dated 25.04.2023, the Trial Court found the accused not guilty for the offence under Section 294(b) I.P.C., and acquitted him from the said charge, however, found him guilty for the offence under Section 302 I.P.C., and convicted and sentenced him, as detailed below:-

Section of Law	Sentence of imprisonment	Fine amount
302 I.P.C.	To undergo life imprisonment.	Rs.5,000/- in default to undergo two years rigorous imprisonment.

2. Challenging the said conviction and sentence, the accused has filed an appeal in Crl.A.(MD) No.469 of 2023 and pending the appeal, he has filed the above miscellaneous petition seeking to suspend the sentence imposed on him.

3. Learned counsel appearing for the petitioner would submit that it is not a case of pre-planned murder. P.W.4 is the only witness to the occurrence. Even as per the evidence of P.W.4, it is the victim, who had initially assaulted the petitioner and only thereafter, the petitioner is said to have taken the Knife (M.O.1)



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and inflicted injuries on the victim. Further, prior to the occurrence, there was a quarrel between the petitioner and the victim. The incident is alleged to have happened on 15.10.2018 and victim succumbed to his injuries only on 22.10.2018. Therefore, the case will not fall under a culpable homicide amounting to murder. There are also several other grounds in the appeal and the likelihood of the appeal being taken up for final hearing in the near future is also not possible, thereby he prayed for suspension of sentence.

4. The respondent has filed a counter affidavit.

5. Learned Additional Public Prosecutor appearing for the respondent – Police, on instructions, would submit that P.W.4 is the witness to the occurrence. He has spoken about the manner in which, the assault had been inflicted on the victim. He would further submit that all the other witnesses have turned hostile. The occurrence had taken place on 15.10.2018 and the victim succumbed to his injuries on 22.10.2018, thereby, he prays for dismissal of the suspension of sentence application.

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

7. On a perusal of the materials, we find that as per the prosecution version, P.W.4 is the only witness to the occurrence. As per his evidence, on



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15.10.2018, there was a quarrel between the victim and the petitioner, the victim is said to have assaulted the petitioner and only thereafter, the incident had taken place. Further, the victim had died on 22.10.2018, after seven days from the date of occurrence. Hence, we are inclined to grant bail to the petitioner.

8. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment alone imposed on the petitioner herein is suspended, 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 Additional District Judge and Sessions Judge, Theni at Periyakulam, Theni District.
- 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 Madurai and report before the learned Judicial Magistrate, Aundipatti, on the first working day of every month, 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/-
28/06/2024

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02/07/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

KRK

To

- 1.The Additional District and Sessions Judge,
Theni at Periyakulam, Theni District.
- 2.The Judicial Magistrate,
Aundipatti.
- 3.Do through the Chief Judicial Magistrate,
Theni District.
- 4.The Inspector of Police,
Andipatti Police Station,
Andipatti, Theni District,
- 5.The Superintendent,
Central Prison, Madurai.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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+1 CC to M/s.K.DINESH, Advocate (SR-7096[I] dated 28/06/2024)

ORDER
IN
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in
CRL A(MD) No.469 of 2023
Date :28/06/2024

ED/ /SAR- (02/07/2024) 9P / 8C

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