



CRL MP(MD) No.8324 of 2024

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

Monday, the Eleventh day of November Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN
and
The Hon`ble Ms.Justice R. POORNIMA

CRL MP(MD) No.8324 of 2024
in
CRL A(MD)NO.535 of 2024

1 RAJU

2 RAJESH

... PETITIONERS/APPELLANTS

Vs

THE INSPECTOR OF POLICE
KALIYAKKAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.
CRIME NO.377/2007.

... 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 by the Learned Principal Sessions Judge, Kanniyakumari at Nagercoil in S.C.No. 101 of 2009 dated 09.02.2024 pending disposal of the Criminal Appeal.

PRAYER in CRL A(MD)NO.535 of 2024:

To set aside the conviction and sentence imposed by the Principal Sessions Judge, Kanniyakumari at Nagercoil in S.C.No.101 of 2009 dated 09.02.2024 and allow the criminal appeal.



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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.M.R.SREENIVASAN, Advocate for the petitioner and of Mr.T.SENTHIL KUMAR, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

Heard both sides.

2. The petitioners along with others were convicted and sentenced vide Judgment dated 09.02.2024 in S.C.No.101 of 2009 on the file of the Principal Sessions Judge, Kanniyakumari. The petitioners figured as A2 & A3. A1 & A4 died during the trial itself. A5 & A6 were granted bail by this Court vide order dated 01.08.2024 in CrI.M.P.(MD)No.4497 of 2024 in CrI.A.(MD)No.348 of 2024.

3. The learned Additional Public Prosecutor appearing for the respondents points out that the principle of parity cannot be invoked in this case. A5 & A6 happen to be ladies. In this case, specific overt act of stabbing with knife is attributed against the first petitioner (A2). The second petitioner Rajesh is said to have stabbed P.W.1. No overt act is attributed against the second petitioner (A3) as far as the deceased is concerned. He had been roped in only by invoking Section 149 of IPC.

4. We are therefore satisfied that case for grant of relief is made out as far as the second petitioner/A3 is concerned. The sentence imposed on the second



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petitioner/A3 is suspended. The petition for suspension of sentence filed by the first petitioner/A2 is *dismissed*.

5. We are inclined to grant suspension of sentence as far as the second petitioner/A3 is concerned. Accordingly, this Criminal Miscellaneous Petition is ordered and the imprisonment ordered by the trial Court through the impugned judgment, dated 09.02.2024 is suspended subject to the following conditions:-

i. The second petitioner/third accused 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 relative, each for a like sum to the satisfaction of the learned Principal Sessions Judge, Kanniyakumari, Nagercoil.

ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Court may obtain a copy of their Aadhar card or Bank passbook to ensure their identity.

iii. The second petitioner/A3 shall report before the learned Principal Sessions Judge, Kanniyakumari, Nagercoil, in the first working day of every English calendar month at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under



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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.

6. This Criminal Miscellaneous Petition is partly allowed.

sd/-
11/11/2024

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12/11/2024

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

RMI

TO

- 1 THE PRINCIPAL SESSIONS JUDGE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
 - 2 THE INSPECTOR OF POLICE
KALIYAKKAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.
 - 3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.R.NANDAKUMAR, Advocate (SR-13836[I] dated 11/11/2024)



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ORDER
IN
CRL MP(MD) No.8324 of 2024
in
CRL A(MD)NO.535 of 2024
Date :11/11/2024

SS/SAR- /12/11/2024/ 5P/6C

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