



Crl.MP(MD)No.8794 of 2024 in Crl.A(MD)No.523 of 2024

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G.ILANGOVAN, J

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in S.C.No.74 of 2017, dated 17/04/2024 passed by the Additional District and Sessions Judge, Kanyakumari District @ Nagercoil and enlarge him on bail pending disposal of the Criminal Appeal.

2.The case of the prosecution in brief:-

On 14/06/2016, the petitioner was travelling in the Bus bearing registration No.TN-74-N-0955 in routine No.4B. At about 08.40 pm, there was a comment. Because of that, quarrel arose between the petitioner and the other person, who is the deceased now. The petitioner alleged to have assaulted the deceased by hands, pushed him down. In the above said quarrel, the deceased was throwm out from the foot board, fell down in the road and sustained injuries and found dead. On the basis of the above said occurrence, a case in Crime No.228 of 2016 was registered by the respondent police for the offences under sections 294(b) and 302 IPC.



3.After completion of investigation, final report was filed and the same was taken on file in SC No.74 of 2017 by the Additional District and Sessions Court, Kanyakumari District @ Nagercoil.

4.Before the trial Court, on the side of the prosecution, 14 witnesses were examined and 19 documents were marked. On the side of the accused, no oral and documentary evidence was adduced.

5.At the conclusion of the trial process, the trial court found the accused guilty of the offence under section 304(ii) IPC and sentenced him to undergo 5 years RI and to pay a fine amount of Rs.1,000/-, in default to undergo 3 months RI.

6.Challenging the conviction and sentence, this appeal is preferred by the appellant. Pending appeal, this criminal miscellaneous petition was taken out by the petitioner seeking suspension of sentence.

7.Heard both sides.

8.The learned counsel appearing for the petitioner would submit that this case has been foisted against the petitioner falsely; Ever-since from the date of judgment,



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he is in custody; The deceased was in a drunken mood, fell on his own out of the Bus and sustained injuries.

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9.Per contra, the learned Government Advocate (Criminal side) would submit that the petitioner picked up quarrel with the deceased and pushed him down and in that process, he was thrown out of the Bus and died.

10.No doubt that there was no intention on the part of the petitioner to cause death. But the trial court thought it fit to convert and modified the offence under section 304(ii) IPC from 302 IPC and awarded conviction and sentenced to undergo 5 years RI. The judgment was pronounced on 17/04/2024. Now, it is too earlier to enlarge the petitioner on bail by suspending the sentence.

11.Considering the nature of the occurrence and the manner of the assault caused by the petitioner, this court is not inclined to enlarge the petitioner on bail by suspending the sentence.

12.In the result, this criminal miscellaneous petition is **dismissed**.

30/08/2024

Index : Yes/No
Internet: Yes/No

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To,

- 1.The Additional District and Sessions Judge,
Kanyakumari District @ Nagercoil.
- 2.The Inspector of Police,
Boothapandi Police Station,
Boothapandi,
Kanyakumari District @ Nagercoil.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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