



CRL MP(MD) No.12380 of 2023

WEB COPY

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

Wednesday, the Twenty Fourth day of July 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.12380 of 2023
IN
CRL A(MD) No.770 of 2023

1 ANBUNITHI

2 ARIVUNITHI

3 ARULNITHI

4 ANBAZHAKAN

5 AZHAKUNITHI

... PETITIONERS/APPELLANTS

Vs

THE INSPECTOR OF POLICE
NACHIYARKOIL POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO.12 OF 2017.

... 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 Additional District and Sessions Judge(Fast Track Court),Kumbakonam in SC.No.50 of 2018 dt.17.7.2023 and enlarge the Petitioners/ Accused No.1 to 5 on bail,till the disposal of the Criminal Appeal.



CRL MP(MD) No.12380 of 2023

PRAYER IN CRL.A(MD).770/2023:

Pleaded to admit this appeal on file and call for the records from the Lower Court and set aside the Judgment passed by the Learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam in S.C.No.50 of 2018 dated 17.07.2023 by allowing this appeal.

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.G.KARUPASAMY PANDIAN, Advocate for M/S.JOEL PAUL ANTONY A, 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 case of the prosecution is as follows:

(i) The deceased Sundarapandi is the son of P.W.1 Pounraj. The accused A4 is the father of the other accused A1 to A3 and A5. The family of the deceased and the accused are residing at Dr.Ambetkar Nagar, Sakkottai Village and one Karuppusamy is also residing in the same street. Karuppusamy got acquainted with the family of the accused Anbazhagan (A4) and fell in love with his daughter, Anbarasi. The accused Anbazhagan's family thought that P.W.1 Pounraj, his deceased son Sundarapandi and other sons are in support of the said love affair. Hence, there was frequent quarrel between the family of the accused Anbazhagan and the deceased and they lodged complaints against each other, thereby, enmity prevailed between the families of Pounraj and Anbazhagan.



CRL MP(MD) No.12380 of 2023

WEB COPY

(ii) While so, on 11.01.2017 at about 9.00 PM, when the deceased Sundarapandi along with his father Pounraj (P.W.1), mother and brothers were sitting and talking together in front of their house, the accused A1 to A5 assembled unlawfully with weapons with the common intention of attacking and murdering Pounraj and his family members. A4 Anbazhagan started a quarrel with P.W.1 Pounraj and told his sons A1 to A3 and A5 to assault and kill him. A3 abused P.W.1 with filthy language and kicked him on his stomach. When P.W.1's son, the deceased Sundarapandi came to prevent the attack, A4 caught hold of the deceased and A1 stabbed him with knife on his left hand, left chest, causing blood injury. When P.W.1 tried to stop them, he was stabbed with knife by A2 on his back and when the other son Karthi (P.W.2) intervened, A2 stabbed him with the same knife on his right thigh. Thereafter, A3 to A5 assaulted P.W.1 and P.W.2 with their hands and legs, causing simple injuries. The deceased Sundarapandi was taken to the Government Hospital, Kumbakonam and the Doctor examined him and declared him as 'brought dead'.

(iii) On information from the Government Hospital, Kumbakonam, P.W.10, the then Sub Inspector of Police, Nachiyarkovil Police Station, went to the hospital and received the complaint (Ex.P12) given by P.W.1 Pounraj. On the basis of the said complaint, FIR (Ex.P13) was registered in Crime No.12/2017 for the offences under Sections 147, 148, 342, 294(b), 324 and 302 IPC.



CRL MP(MD) No.12380 of 2023

WEB COPY

(iv) P.W.11, Inspector of Police, took up the case for investigation, visited the scene of occurrence and prepared observation mahazar (Ex.P14) and rough sketch (Ex.P15) and also recovered blood stained and ordinary soil in the presence of the witnesses. P.W.11 went to the Government Hospital and examined P.W.1 and recorded his statement and thereafter, he went to the mortuary and conducted inquest on the body of the deceased in the presence of the witnesses and sent the body of the deceased for postmortem.

(v) On 12.01.2017, at about 12.30 PM, P.W.11 on information went to Krishnapuram Bus Stop and arrested the accused A1 to A5 and brought them to Police Station. He enquired the accused persons independently and recorded their confession statements. Based on their confession, P.W.11 recovered the knives (M.O.1 and M.O.2) and thereafter, sent the accused to judicial custody. After examination of the witnesses and collecting medical and forensic reports, P.W.11 completed the investigation and filed a final report against the accused for the offences under Sections 147, 148, 294(b), 323, 324 and 302 IPC.

(vi) The final report was taken on file by the learned Judicial Magistrate No.II, Kumbakonam in P.R.C.No.25/2017 and after compliance of the mandate under



CRL MP(MD) No.12380 of 2023

Section 207 Cr.P.C., the case was committed to the file of the Sessions Court, Thanjavur. The case was taken up in S.C.No.50/2018 by the Principal District Court, Thanjavur and made over to the file of the Additional District and Sessions (FTC) Court, Kumbakonam for trial.

(vii) The Trial Court, after hearing the accused, framed the following charges:

Accused	Charges framed
A1	147, 148, 302 r/w 149 IPC
A2	147, 148, 324 (2 counts), 302 r/w 149 IPC
A3	147, 148, 294(b), 323 and 302 r/w 149 IPC
A4	147, 148, 323, 302 r/w 149 IPC
A5	147, 148, 323, 302 r/w 149 IPC

(viii) When questioned, the accused pleaded 'not guilty'. To prove the case, the prosecution examined 11 witnesses and marked 28 exhibits and 5 material objects. When the accused were questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against them, they denied the same and did not come forward to give any plausible explanation. No witness was examined from the side of the accused. Ex.D1 was marked at the time of cross-examination of P.W.11, the Investigation Officer.



CRL MP(MD) No.12380 of 2023

WEB COPY

(ix) By judgment dated 17.07.2023, the Trial Court found the accused A1 guilty for the offences under Sections 148 and 302 r/w 149 IPC. A2 was found guilty for the offences under Sections 148, 324 (2 counts) and 302 r/w 149 IPC. A3 was found guilty for the offences under Sections 148, 294(b), 323, 302 r/w 149 IPC. A4 and A5 were found guilty for the offences under Sections 148, 323 and 302 r/w 149 IPC. The Trial Court convicted and sentenced the accused persons as follows:

Accused	Section of law	Sentence of Imprisonment	Fine amount
A1 to A5	148 IPC	3 years simple imprisonment	Rs.1000/- each in default to undergo six months simple imprisonment
A1 to A5	302 r/w 149 IPC	Life imprisonment	Rs.1000/- each in default to undergo one year imprisonment



CRL MP(MD) No.12380 of 2023

A2	324 IPC (2 counts)	3 years simple imprisonment for each count	Rs.1000/- for each count in default to undergo six months simple imprisonment for each count
A3	294(b) IPC	6 months simple imprisonment	Rs.250/- in default to undergo one month simple imprisonment
A3 to A5	323 IPC	One year simple imprisonment	Rs.500/- each in default to undergo three months simple imprisonment

Sentences were ordered to run concurrently. A1 to A5 were not awarded any punishment under Section 147 IPC since they were punishable under Section 148 IPC.

2. Challenging the said conviction and sentence, the accused A1 to A5 has filed CrI.A.(MD).No.770 of 2023. Pending appeal, they have filed the present Criminal Miscellaneous Petition seeking for suspension of sentence.



WEB COPY

3. The learned counsel appearing for the petitioners would submit that the entire family members of the petitioners/accused have been falsely roped in this case. The family of the petitioners and the deceased are neighbours and that the incident is said to have happened during a quarrel, which developed into altercation. He would further submit that A4, the father of the other accused, has also been injured in the incident and the injury sustained by A4 has not been explained by the prosecution. He would also submit that even as per the prosecution, major overt act pertaining to the injuries on the deceased is attributed only to A1 and A2 and the allegations against the other accused are that they have caused injuries to the witnesses only and thereby, he prays for grant of suspension of sentence.

4. The respondent has filed a detailed counter. The learned Additional Public Prosecutor appearing for the respondent would submit that on account of love affair between the daughter of A4 and one Karuppusamy, there was a quarrel between the families of the deceased and the accused. The accused, under the impression that the deceased Sundarapandi and his family members were supporting the said Karuppusamy, had continuously quarrelled with him and there was enmity



between them. While so, on 11.01.2017, the accused had joined together, came to the house of the deceased and committed the offence in the presence of the family members of the deceased. He would further submit that though there is no specific overt act as against the petitioners 3 to 5/A3 to A5, there is evidence to show that they shared the common intention in attacking the deceased and thereby, he prays for dismissal of the application.

5. Heard the learned counsels on both sides and perused the records.

6. Having gone through the records, we find that the overt act in respect of the fatal injury of the deceased is attributed only to the first and second petitioners/A1 and A2. As far as the other petitioners/A3 to A5 are concerned, the allegations against them are that they have caused simple injuries to the witnesses.

7. At this juncture, the learned counsel for the petitioners would submit that he is not pressing the application in respect of the first and second petitioners/A1 and A2 and he would seek for suspension of sentence as regards the petitioners 3 to 5/A3 to A5.



CRL MP(MD) No.12380 of 2023

WEB COPY

8. Hence, taking into consideration the facts and circumstances, we are inclined to grant suspension of sentence in respect of the petitioners 3 to 5/A3 to A5 alone.

9. Accordingly, the Criminal Miscellaneous Petition is partly allowed as regards the petitioners 3 to 5/A3 to A5 and dismissed as not pressed as regards the first and second petitioners/A1 and A2. The substantive sentence of imprisonment alone imposed on the petitioners 3 to 5 is suspended, subject to the following conditions:

i. The petitioners 3 to 5/A3 to A5 are directed to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees twenty five thousand only) each, 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 and Sessions Judge (FTC) Court, Kumbakonam.

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.



CRL MP(MD) No.12380 of 2023

WEB COPY

iii. The petitioners 3 to 5/A3 to A5 shall report before the learned Judicial Magistrate No.II, Thanjavur on the first working day of every month at 10.30 a.m. until further orders. It is made clear that the petitioners 3 to 5 shall not enter the jurisdictional limits of the respondent Police Station until further orders.

sd/-
24/07/2024

/ TRUE COPY /

29/07/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

LM

TO

1 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE (FAST TRACK COURT),
KUMBAKONAM.

2 THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON, TRICHY.

3 THE INSPECTOR OF POLICE
NACHIYARKOIL POLICE STATION, THANJAVUR DISTRICT.

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

COPY TO:

1 THE JUDICIAL MAGISTRATE NO.II,
THANJAVUR.



CRL MP(MD) No.12380 of 2023

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.

+1 CC to M/s.A.JOEL PAUL ANTONY, Advocate (SR-8535[I] dated 25/07/2024)

ORDER IN
CRL MP(MD) No.12380 of 2023
IN
CRL A(MD) No.770 of 2023
Date :24/07/2024

SS/SAR- /29/07/2024/12P/8C

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