



CRL.M.P.(MD)No.11140 of 2024

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

Saturday, the Nineteenth day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL.M.P.(MD)No.11140 of 2024

in

CRL.A.(MD)No.590 of 2024

A.JAFAR SATHIK

... PETITIONER/PETITIONER/ APPELLANT/ A1

Vs

THE INSPECTOR OF POLICE,
THENKARAI POLICE STATION,
PERIYAKULAM,
THENI DISTRICT.

CRIME NO. 1977/2020

... RESPONDENT/RESPONDENT/RESPONDENT/
COMPLAINANT

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 judgment dt. 28.06.2024 made in S.C No. 83/2021 on the file of the Additional District and Sessions Court, Periyakulam and enlarge the petitioner on bail pending disposal of the above appeal.

Prayer in CRL.A.(MD)No.590 of 2024:

Pleased to call for the reocrds relating to the Judgment dated 28.06.2024 made in S.C.No.83 of 2021 on the file of Additional District and Sessions Court, Periyakulam and set aside the conviction and sentence imposed against the Appellant and allow above appeal by acquitting the Appellant.

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



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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.AJMAL KHAN, Senior Counsel for M/S.AJMAL ASSOCIATES, for the petitioner and of Mr.M.SAKTHI KUMAR, Government Advocate(crl.side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Additional District and Sessions Judge, Periyakulam, dated 28/06/2024 in S.C.No.83 of 2021 and enlarge the petitioners on bail, pending disposal of the above said Criminal Appeal.

2.The facts in brief:-

A2 namely H.Hakkiam was running a mutton stall near Thamaraikulam College Road, Theni. A1-A.Jafar Sathik was working under him. The deceased Syed Mohammed put up a mutton stall near the mutton stall of A2 on the eve of Deeapavali festival. Because of that, the business of A2 affected. So there was enmity between them on the business motive. On 15/11/2020 at about 4.00 p.m., both the accused assaulted one Sulaiman, who is the father-in-law of the deceased Syed Mohamed near the market area. In furtherance of the above said incident, at about 05.30 p.m., the deceased Syed Mohammed along with his relatives Kadhar Meeran Mydeen and Mulkar Sathik went to the house of A1 and questioned him about the assault. At that time, A2 also came to that place. He instigated A1 to kill the deceased



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Syed Mohammed. A1 with an intention to kill the Syed Mohammed beat him forcibly with his hands on chest and head and pushed him down. A1 stamped him on his chest. The deceased was taken to the Government Hospital, Periyakulam, but he died. On the basis of the complaint given by the complainant, the case was registered. After completing the investigation, final report was filed, charge sheeting A1 for the offences under sections 323 and 302 IPC. and A2 was charge sheeted for the offences under sections 323 and 302 r/w 114 IPC.

3.The case was tried by the Additional District and Sessions Judge, Periyakulam, in SC No.83 of 2021. After committal process was over, the following charges were made:-

Accused No.1 – under sections 323 and 302 IPC

Accused No.2 – under sections 323 and 302 r/w 114 IPC

4.On the side of the prosecution, 16 witnesses were examined and 12 documents marked. 3 material objections were exhibited. On the side of the accused, 3 documents were marked.

5.At the conclusion of the trial process, the trial court found A1 guilty of the offence under sections 323 IPC and convicted and sentenced to undergo 6 months simple imprisonment and to pay a fine of Rs.1,000/- (Rupees One thousand only) in default, he shall undergo simple imprisonment for a period of one month; and also



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A1 found guilty for the offence under section 304 Part II IPC and convicted and sentenced to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten thousand only) in default, he shall undergo simple imprisonment for a period of six months. A2 found guilty of the offence under section 304 Part II r/w section 114 IPC and convicted and sentenced him to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten thousand only) in default, he shall undergo simple imprisonment for a period of six months. He was acquitted from the charge under section 323 IPC.

6.Against which, this appeals are preferred by the appellant. Pending appeals, two separate miscellaneous petitions were taken out by the two accused persons, seeking suspension of sentence. Out of which, the application filed by the A2 was allowed and considering the nature of the injury suffered by the deceased, the application filed by the first accused was dismissed by this Court stating that it is too an earlier stage.

7.At the time of dismissing the earlier application filed by this petition, the following observation was made by this Court.

“16.Reading of he evidence of the Doctor clearly shows that several contusions occurred in the head region and chest also.

Mere pushing down will not cause four contusions.



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17. Prima facie, it is seen that he was assaulted with hands by

A1. In such circumstances, whether the offence under section 304 Part II IPC will be attracted is a matter for consideration by the court. But the involvement of A2 to instigate A1 to cause death is remote."

8. Now considering the period of incarceration, this Court is inclined to allow this petition.

9. In the result, Crl.M.P.(MD)No.11140 of 2024 in Crl.A(MD)No.590 of 2024 is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the Additional District and Sessions Judge, Periyakulam, and on further condition that he shall appear before the said Court once in a week at 10.30 am pending criminal appeal.

sd/-
19/10/2024

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19/10/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

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1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PERIYAKULAM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE,
THENKARAI POLICE STATION,
PERIYAKULAM,
THENI DISTRICT.

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

+1 CC to M/s.M/S.AJMAL ASSOCIATES, Advocate (SR-12763[I] dated
19/10/2024)

ORDER IN
CRL.M.P.(MD)No.11140 of 2024

in
CRL.A.(MD)No.590 of 2024

Date :19/10/2024

SA/SAR. /19.10.2024/6P/6C

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