



CRL MP(MD) No.13532 of 2023

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

Friday, the Fifth 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.13532 of 2023
in
CRL A(MD)No.869 of 2023

GOPAL

... PETITIONER/ APPELLANT/ SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
SEITHUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CRIME NO. 48/2019

... 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 on the petitioner in S.C no. 135 of 2019 by a Judgment dated 30.06.2023 by the Principal District and Sessions Judge, Virudhunagar at Srivilliputhur and enlarge the petitioner on bail pending the above criminal appeal.

PRAYER in CRL A(MD)No.869 of 2023:

To call for records and set aside the conviction and sentence imposed on the appellant by a judgment dated 30.06.2023 in S.C.No.135 of 2019 on the file of the Principal District and Sessions Judge, Virudhunagar at Srivilliputhur and acquit the Appellant by allowing this 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 M/S.RIAZ AHAMED.M.J, Advocate for the petitioner and of Mr.A.THIRUVADI KUMAR, 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.]

Seeking to suspend the sentence imposed on the petitioner by the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur, *vide* Judgment dated 30.06.2023 in S.C.No.135 of 2019, he has filed this criminal miscellaneous petition.

2. The petitioner stands convicted and sentenced as under:

Section of Law	Sentence of imprisonment	Fine amount
302 I.P.C.	To undergo life imprisonment	Rs.5,000/-, in default to undergo six months simple imprisonment.
341 I.P.C.	Nil	Rs.100/-, in default to undergo one week simple imprisonment.
506 (II) I.P.C.	To undergo one year imprisonment	Rs.1,000/-, in default to undergo three months simple imprisonment.



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3. The case of the prosecution is that on 09.02.2019, at about 07.00 p.m., the deceased went to a Temple festival along with others and returned back to his home in the early morning at 01.15 a.m., on the next day i.e. on 10.02.2019 and thereafter, he went outside of the house to attend nature's call. At that time, the petitioner attacked the deceased and stabbed him by a knife, thereby, he succumbed to the injuries on 11.02.2019 at 12.15 hours.

4. Learned counsel for the petitioner would submit that the alleged occurrence is said to have taken place in the early hours on 10.02.2019, when the deceased is said to have gone out to attend nature's call. Though P.Ws.1 and 2 are said to be the witness to the occurrence, the contradictions in their evidence would show that they would not have been present in the place of occurrence. Further, though the occurrence is said to have taken place at the early hours i.e., at 01.15 a.m., on 10.02.2019, the FIR has been registered after much deliberation falsely implicating the petitioner and further there is a delay of more than fifteen hours. Further, there are several arguable points in favour of the petitioner and the likelihood of the appeal being taken up for final hearing in the near future is also not possible and therefore, he prayed for suspension of sentence.



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5. The respondent – Police has filed a detailed counter affidavit.

6. Learned Additional Public Prosecutor appearing for the respondent – Police, on instructions, would submit that the petitioner is the father-in-law of P.W.2. The son of the petitioner had passed away and there was a dispute with regard to sharing of properties and there was enmity between the petitioner and the deceased, due to which, the petitioner had committed the murder by attacking the deceased with Aruval. The evidence of P.Ws.1 and 2 is cogent.

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

8. Having gone through the records and taking into consideration the facts and circumstances of the case, we are of the opinion that it is a fit case for grant of suspension of sentence to the petitioner.

9. 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:



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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 Principal District and Sessions Judge, Virudhunagar at Srivilliputhur.

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

iii. The petitioner shall appear before the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur at 10.30 a.m., on the first working day of every calender month, until further orders.

iv. It is made clear that the petitioner shall not enter into the jurisdictional limits of the respondent Police Station until further orders.

sd/-
05/07/2024

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08/07/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

KRK
TO

1 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE,
VIRUDHUNAGAR AT SRIVILLIPUTHUR.



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2 THE INSPECTOR OF POLICE
SEITHUR POLICE STATION, VIRUDHUNAGAR DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

ORDER
IN
CRL MP(MD) No.13532 of 2023
in
CRL A(MD)No.869 of 2023
Date :05/07/2024

SS/SAR- /08/07/2024/6P/5C

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