



CRL MP(MD) Nos.10936 and 11223 of 2024

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

Wednesday, the Eighteenth day of December Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE P. VADAMALAI

CRL MP(MD) Nos.10936 and 11223 of 2024

in

CRL RC(MD) Nos.992 and 1010 of 2024

M.CHINNAPANDI

... Appellant / Accused No.2
in CRL MP(MD) No.10936 of 2024

1.MURUGAN @ VAI.GO.MURUGAN

2.SELVAM

... Petitioners / Petitioners
in CRL MP(MD) No.11223 of 2024

Vs

THE INSPECTOR OF POLICE,
NANGUNERI POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.127 OF 2008.)

... Respondent / Respondent
in both petitions

Prayer in CRL MP(MD). 10936/ 2024 :

To Suspend the Sentence imposed by the Learned Assistant Sessions Judge,Valliyoar,Tirunelveli District vide judgement dt.15.9.2016 in SC.No.243 of 2011 which has been partly allowed by the Learned III-Additional District and Sess. Judge,Tirunelveli in CRL A No.59 of 2016 vide judgment dated 28.08.2024 pending the disposal of the main criminal revision petition pending on the file of this Hon'ble Court.



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Prayer in CRL RC(MD). 992/ 2024 :

To call for the entire records pertaining to the judgment delivered by the Learned Assistant Sessions Judge, Valliyoor, Tirunelveli District vide judgement dt.15.9.2016 in SC.No.243 of 2011 which has been partly allowed by the learned III Additional District and Sessions Judge, Tirunelveli in Criminal Appeal No.59 of 2016 vide judgment dated 28.08.2024 and set aside the same and consequently acquit the appellant from all the charges mentioned in the said case.

Prayer in CRL MP(MD). 11223/ 2024 :

To Suspend the sentence imposed upon the petitioners by the Learned III Additional District and Sessions Court, Tirunelveli in Crl.ANo.59/2016 dt. 28.08.2024 by confirming the judgment of conviction in S.C.No.243/2011 dt.15.09.2016 on the file of the learned Assistant Sessions Judge, Valliyur and enlarge me on bail, pending disposal of this criminal revision.

Prayer in CRL RC(MD). 1010/ 2024 :

To call for the records pertaining to the order passed by the Learned III Additional District and Sessions Court, Tirunelveli in Crl.ANo.59/2016 dt. 28.08.2024 by which the judgment of conviction dt.15.09.2016 passed in S.C.No.243/2011 by the learned Assistant Sessions Judge, Valliyur has been upheld by dismissing the aforesaid appeal and consequently confirming the conviction of the revision petitions and to set aside the same as illegal.

Order : These criminal miscellaneous petitions coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/s.ANAND R., Advocate for the petitioner in CRL MP(MD) No.10936f 2024 and Mr.K.SUYAMBULINGABHARATHI, Advocate on behalf of the petitioners in CRL MP(MD) No.11223 of 2024 and of Mr.R.M.ANBUNITHI, Additional Public Prosecutor on behalf of the Respondent in both petitions, while admitting the criminal revision cases, the Court made the following order:-



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Reserved on : 09.12.2024

Pronounced on : 18.12.2024

The petitioners have filed these respective petitions to enlarge them on bail by suspending the sentence imposed on them in conviction judgment, dated 15.09.2016 made in S.C.No.243 of 2011 on the file of the learned Assistant Sessions Judge, Valliyoor, which was confirmed and modified the sentence by the learned III Additional District and Sessions Judge, Tirunelveli in Crl.A.No.59 of 2016 by judgment, dated 28.08.2024, till the disposal of the Criminal Revision Cases.

2. The brief facts of the prosecution case:

The petitioner in Crl.M.P(MD)No.10936 of 2024 in Crl.R.C(MD) No.992 of 2024 is Accused No.2 in S.C.No.243 of 2011 on the file of the learned Assistant Sessions Judge, Valliyoor. The petitioners in Crl.M.P(MD)No.11223 of 2024 in Crl.R.C(MD) No.1010 of 2024 are Accused Nos.1 and 3 in that case. The petitioners were found guilty of charges U/s.452 and 307 of IPC and they were convicted and sentenced to undergo Rigorous Imprisonment for a period of 5 years each and to pay a fine of Rs.5,000/- each in default, to undergo Rigorous Imprisonment for a period of two years each U/s.452 of IPC; they were convicted and sentenced to undergo Rigorous Imprisonment for a period of 7 years each and to pay a fine of Rs.5,000/- each, in default, to undergo Rigorous Imprisonment for a period of two years each U/s.307



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of IPC, directing the sentence of imprisonment to run concurrently as per judgment, dated 15.09.2016 passed by the trial Court.

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3. Aggrieved by the conviction judgment, the petitioners have preferred the appeal in Crl.A.No.59 of 2016 before the III Additional District and Sessions Court, Tirunelveli. The said Crl.A.No.59 of 2016 was partly allowed by judgment, dated 28.08.2024, confirming the conviction and fine amount, however modifying the sentence to undergo Rigorous Imprisonment for a period of 4 years each and to pay a fine of Rs.5,000/- each, in default, to undergo simple imprisonment for a period of 1 month each U/s.452 of IPC and to undergo 5 years Rigorous Imprisonment each and to pay a fine of Rs.5,000/- each, in default, to undergo simple imprisonment for a period of 1 month each U/s.307 of IPC.

4. Challenging the judgment passed in Crl.A.No.59 of 2016, the petitioners have preferred the respective main Criminal Revisions before this Court. Along with the Criminal Revisions, the petitioners have filed these petitions seeking suspension of sentence and for bail till the disposal of the criminal revisions.

5. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondent and perused the records in these Criminal Miscellaneous Petitions.

6. The learned counsels for the petitioners submitted that the Courts below



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failed to consider the evidence of prosecution witnesses, which are contradictory to each other. The Courts below have considered only the chief examination of witnesses and their cross examinations were not considered. The alleged occurrence took place at 1.30 p.m., but the complaint was recorded at 3.15 p.m., the delay was not explained by the prosecution. Moreover, the writer of F.I.R. was not examined on the prosecution side. Their evidences are uncorroborated. The petitioner in Crl.M.P(MD)No.10936 of 2024 in Crl.R.C(MD)No.992 of 2024 is Accused No.2, who is practicing advocate. F.I.R. was registered at 3.30 p.m., whereas P.W.4 deposed as it was registered at 7.30 p.m. The Courts below have not considered all these aspects. There are number of arguable points in these revisions. The petitioner has a fair chance of success in these criminal revisions. Therefore, the learned counsels prays for suspension of sentence till the disposal of these criminal revisions and the petitioners may be released on bail.

7. Per contra, the learned Additional Public Prosecutor would submit that the petitioner/Accused No.2, who is practicing advocate is not a ground to suspend the sentence or exemption from appearance. There are totally four injured among them one of the injured lost his hand, i.e., the accused severed the hand of the injured during the course of commission of occurrence. Totally 23 prosecution witnesses were examined and there are corroborated evidence each other against the



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petitioners/accused. The petitioners have not appeared before the first Appellate Court on the date of pronouncing judgment and still they have not surrendered themselves for execution of sentence. The Courts below have correctly appreciated the evidence and correctly passed the judgment convicting the accused as stated therein. Therefore, he strongly opposed to grant suspension of sentence and bail.

8. On hearing both sides rival arguments and on perusal of records, it is clear that the petitioners were convicted and sentenced to imprisonment by the trial Court, however the imprisonment of sentence was modified by the first Appellate Court as stated supra. The prosecution states that there are four injured in this case and a hand was severed from one of the injured during the occurrence. There is concurrent finding of the Courts below in respect of conviction. Though the learned counsels for the petitioners contended that there are several arguable points and one of the petitioners is a practicing advocate, these can not be decided in these petitions as rightly represented by the learned Additional Public Prosecutor for the respondent. The contradictions alleged by the petitioners' side could not be decided in these petitions and they have to be dealt with in criminal revisions. Therefore, considering the above facts and circumstances and also considering the acts of the petitioners, this Court is not inclined to consider the relief of suspension of sentence sought in these petitions.



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9. In the result, these Criminal Miscellaneous Petitions are dismissed.

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sd/-
18/12/2024

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/12/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSD

To

- 1.The III Additional District and Sessions Judge,
Tirunelveli.
- 2.The Assistant Sessions Judge,
Valliyoor.
- 3.The Inspector of Police,
Nanguneri Police Station,
Tirunelveli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai.



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ORDER

IN

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in

CRL RC(MD) Nos.992 and 1010 of 2024

Date :18/12/2024

ED/ VR /SAR- (31/12/2024) 8P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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