



CRL.R.C(MD)No.1197 of 2023

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

Friday, the Nineteenth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice P.VADAMALAI

CRL.M.P(MD)Nos.15199 and 15200 of 2023

in

CRL.R.C(MD)No.1197 of 2023

SYLAS

... PETITIONER/PETITIONER
IN CRL.MP(MD).15199 & 15200/2023

Vs

THE INSPECTOR OF POLICE
THIRUVATTAR POLICE STATION,
THIRUVATTAR,
KANYAKUMARI DISTRICT.

... RESPONDENT/RESPONDENT
IN CRL.MP(MD).15199 & 15200/2023

Prayer in CRL MP(MD). 15199/ 2023 :

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to grant an order of suspend the sentence imposed by the judgment dt.29/9/2023 passed in Crl.A.No.10/2014 on the file of the Learned Additional District and Sessions Court, Padmanabapuram confirming the judgment dt.13/3/2014 in SC.No.134/2006 on the file of the Learned Assistant Sessions Judge, Padmanabapuram and pending disposal of the main criminal revision petition.

Prayer in CRL MP(MD). 15200/ 2023 :

To exempt the petitioner to surrender before the lower appellate court to take the judgement dt.29/9/2023 passed in Crl.A.No.10/2014 on file of the Learned Additional District and Sessions Court, Padmanabapuram confirming the judgment dt.13/3/2014 in S.C.No.134 of 2006 on the file of the Learned Assistant Sessions



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Judge, Padmanabapuram and pending disposal of the main criminal revision petition.

Prayer in CRL RC(MD). 1197/ 2023 :

To call for the records and set aside the judgment dt.29/9/2023 passed in Crl.A.No.10/2014 on the file of the learned Additional District and Sessions Court, Padmanabapuram confirming the judgment dt.13/3/2014 in SC No.134/2006 on the file of the Learned Assistant Sessions Judge, Padmanabapuram.

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 Mr.R.MURUGAN, Advocate for the petitioner and of Mr.K.SANJAI GANDHI, Government Advocate on behalf of the Respondent, the court made the following order:-

Reserved on : 28.11.2023

Pronounced on : 19.01.2024

The petitioner has filed these petitions to suspend the sentence imposed against him in judgment dated 29.09.2023 made in C.A.No.10 of 2014 by the learned Additional District and Sessions Judge, Padmanabapuram, confirming the conviction and sentence passed in S.C.No.134 of 2006 on the file of the learned Assistant Sessions Judge, Padmanabapuram dated 13.03.2014 and to enlarge him on bail till the disposal of Criminal Revision Case and for exemption of his surrender pursuant to the aforesaid judgment.



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2.The brief facts of the prosecution case:

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The petitioner/accused is sole accused in this case. There was a previous motive between the petitioner/accused and the husband of the defacto complainant/PW1 regarding the compound wall. On 07.01.2005 at about 8.30 a.m. the injured was standing in front of his house, the petitioner/accused armed with knife pushed the injured down on the earth and attacked with knife and caused cut injuries and stab injuries on his body. P.W.1 lodged a complaint. F.I.R. was registered in Crime No.20 of 2005 for the offence under Sections 324, 325, 506 (ii) IPC @ 307 and 506(ii) of IPC. P.W.14 - The Sub Inspector of Police did investigation and laid charge sheet. The petitioner/accused was charged for the offence under Section 307 of IPC. The case was conducted before the learned Assistant Sessions Judge, Padmanabapuram and after full trial, the petitioner/accused was found guilty of the charge and convicted and sentenced to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for a period of one year by way of judgment dated 13.03.2014. The petitioner/accused preferred the appeal in C.A.No.10 of 2014 before the learned Additional District and Sessions Court, Padmanabapuram and the appeal was dismissed on 29.09.2023 confirming the conviction and sentence of the trial Court.

3. Aggrieved by the conviction judgment of both Courts below, the



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petitioner/accused has preferred the present Criminal Revision Case before this Court. Along with Revision, the petitioner has filed the present applications (i) for suspension of sentence and for bail pending disposal of the criminal revision (ii) to exempt the petitioner from surrendering before the trial Court.

4. Heard both sides and perused the records in this Criminal Miscellaneous Petition.

5. The learned counsel for the petitioner/accused would submit that the petitioner/accused and the injured are brothers. The injured as P.W.2 deposed that there was no dispute regarding the compound wall and the police did not enquire him. The doctor stated that the injured sustained injuries on falling down. The injured has a previous case and also a case against him as he attacked his father. The petitioner has not caused any injuries as stated by the prosecution. There is no independent witness to corroborate the evidence of P.W.1 and P.W.2. The injured due to his age fell down and sustained injuries. The present case is a put-up case against the petitioner/accused. These facts are not considered by the courts below. The petitioner is now aged 80 years. The petitioner was on bail during trial of the case. The petitioner is the only breadwinner of his family. The petitioner has a fair chance of succeed in this revision. Therefore, the learned counsel for the petitioner prays for suspension of sentence and bail for the petitioner.



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6. Per contra, the learned Government Advocate (Criminal Side) would submit that the husband of the defacto complainant is the elder brother of the accused. There was a motive between them as the husband of the defacto complainant constructed a compound wall to stop the rainwater flowing from the accused land. On the occurrence day when the injured was standing in front of his house, the accused came there and forcibly pushed down and caused stab injuries with knife and also broken a tooth of injured. The injured was admitted in the hospital and he could not talk, her wife/defacto complainant lodged a complaint. The case was registered and the prosecution clearly proved the case against the petitioner/accused and all the prosecution witnesses categorically deposed corroborating with each other. The trial Court correctly appreciated the evidence and convicted the accused and the First Appellate Court has also upheld the conviction. The petitioner was judicial custody only from 10.01.2005 to 08.02.2005. Even at the time of judgment in criminal appeal, the petitioner failed to appear and failed to surrender before the Court for execution of rest of sentence. The petitioner is an aged person, however, even at his old age he assaulted his own elder brother, who is an aged person than the petitioner. The act of the petitioner shows his criminal acts even at this old age. So, he is not entitled for any leniency and also he is not entitled for suspension of sentence of trial Court and the same was upheld by the First Appellate Court. The gravity of offence committed



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by the petitioner has to be looked in this case. Therefore, he strongly opposed to grant suspension of sentence and thereby the petitioner is not entitled to bail.

7. On hearing both side rival arguments and on perusal of records, it is clear that the petitioner was convicted and sentenced to imprisonment as stated supra. During the course of argument, the learned counsel for the petitioner has drawn the attention of the Court to certain grounds of defence mainly that this case is put up case. The occurrence took place between the brothers, admittedly both aged persons. It is alleged that the petitioner forcibly pushed down his own elder brother and caused stab injuries with knife due to previous motive upon constructed compound wall by injured. The doctor's evidence shows the injuries sustained by the injured including a tooth broken. The conviction of the trial Court was upheld by the First Appellate Court. Considering the criminal act of the petitioner/accused at his old age alleged to have committed upon his own elder brother and the gravity of offence involved in this criminal revision, this Court is not inclined to consider the relief sought in this petition and holds that the petitioner has no valid reasoned circumstances in this petition.

8. Hence, the suspension of sentence petition in CRL.M.P(MD)No.15199 of 2023 is dismissed.



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9. Since the suspension of sentence petition is dismissed, the Criminal Miscellaneous Petition in Crl.M.P(MD)No.15200 of 2023 is also dismissed.

sd/-
19/01/2024

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/01/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSD
TO
1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PADMANABAPURAM.

2 THE ASSISTANT SESSIONS JUDGE,
PADMANABAPURAM.

3 THE INSPECTOR OF POLICE
THIRUVATTAR POLICE STATION,
THIRUVATTAR,
KANYAKUMARI DISTRICT.

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

+1 CC to M/s.R.MURUGAN, Advocate (SR-802[I] dated 19/01/2024)

ORDER IN
CRL.M.P(MD)Nos.15199 and 15200 of 2023
in
CRL.R.C(MD)No.1197 of 2023
Date :19/01/2024

SA/VR/SAR. /22.01.2024/7P/6C

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