



CRL MP(MD) No.16791 of 2023

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

Friday, the Twelfth day of January Two Thousand and Twenty Four
PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU
and

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN
CRL MP(MD) No.16791 of 2023

in
CRL A(MD) No.936 of 2023

MUNIYASAMY

... PETITIONER/ APPELLANT/ ACCUSED NO.11

Vs

THE INSPECTOR OF POLICE
SILAIMAN POLICE STATION,
MADURAI DISTRICT.
(CRIME NO.63/2015).

... 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 execution of sentence by granting bail in SC No.567/2016 dt.11/9/2023 on the file of the Learned VIth Additional Sessions Judge, Madurai, Madurai District till the disposal of the Crl.A.

Prayer in CRL A(MD).936/2023 :

To admit this appeal on file, to call for the records from the lower court in S.C.No.567/2016 on the file of the Learned VI Additional Sessions Judge, Madurai, Madurai District and set aside the judgement dated 11.09.2023 by acquitting the appellants and by allowing the Appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.K.PRABHU, Advocate for the petitioner and of MR.S.RAVI, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-



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Sl.No	Provisions under which convicted	Sentence of imprisonment	Fine amount
1	302 r/w.109 IPC	To undergo life imprisonment	Fine of Rs.10,000/- in default to undergo simple imprisonment for one year

2.The case of the prosecution is that the deceased Karuppasamy was the Panchayat President of Karcherry Village. At that time, A1 constructed a house encroaching a portion of the road. Hence, the village people made a complaint to the Village President Karuppasamy and this led to the removal of encroachment in the newly constructed house by the revenue officials on 26.02.2015 as per the directions of this Court. With this motive, on 27.02.2015 at 04.30 p.m., the Accused Nos.1 to 12 assembled with deadly weapons near Murugan temple. Accused Nos.7 to 10 surrounded the deceased, Accused No.1 assaulted the deceased with aruval on the left side ribs and stomach, Accused No.3 assaulted the deceased with knife on the



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right side of the ribs, stomach, right hand wrist and left chest. Further, Accused No.4 assaulted the deceased with sword on the chest, Accused No.5 stabbed the deceased with a knife on the cheek, right side of face, Accused No.6 assaulted the deceased with knife on the left shoulder and body and Accused Nos.7 to 9 assaulted the deceased with knife. Thereafter, the deceased was taken to Apollo Hospital, Madurai, where he died on 28.02.2015 at about 05.35 a.m. Hence, P.W.1 gave a complaint and the respondent Police registered the case in Crime No.63 of 2015 and conducted the investigation and filed the final report before the learned Judicial Magistrate No.II, Madurai.

3.The learned Judicial Magistrate No.II, Madurai, has taken on file in P.R.C.No.69 of 2015 and committed to the VI Additional Sessions Court, Madurai. The learned VI Additional Sessions Court, Madurai, has taken on file in S.C.No.567 of 2016. The learned VI Additional Sessions Court, Madurai, after considering the evidence of P.W.1 to 20, Ex.P1 to P.34 and M.O.1 to M.O.13 and Ex.D1, passed the impugned Judgment of conviction and sentence as stated above.

4.Challenging the same, the Accused No.11 filed this appeal along with the suspension of sentence in Crl.M.P.(MD).No.16791 of 2023 before this Court and this Court, by order dated 17.10.2023, admitted the appeal and thereafter by order dated 29.11.2023 directed the learned Additional Public Prosecutor to file counter and



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posted the matter for hearing on 12.01.2024 [today].

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5.This Court has carefully considered the submissions made on either side and the materials available on record. This Court has also carefully gone through the Judgment passed by the Court below.

6.Learned Counsel for the petitioner submits that though the FIR speaks about the presence of Accused No.11 in the scene of occurrence, the P.Ws1 to 3 in their evidence does not speak about the presence of Accused No.11 in the scene of occurrence. Further, the learned Counsel for the petitioner / Accused No.11 submits that the petitioner is 76 years old and prays for suspending his sentence.

7.The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

8.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with the following directions:-

- (i) The petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties within a period of 10 days



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from the date of receipt of a copy of this order, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Madurai.

(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 Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders.

sd/-
12/01/2024

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12/01/2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

MR

TO

1 THE VI ADDITIONAL SESSIONS JUDGE, MADURAI, MADURAI DISTRICT.

2 THE JUDICIAL MAGISTRATE NO.II, MADURAI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI.

4 THE INSPECTOR OF POLICE, SILAIMAN POLICE STATION,
MADURAI DISTRICT.

5 THE SUPERINTEDENT, CENTRAL PRISON, MADURAI.



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

+1 CC to M/s.K.PRABHU, Advocate (SR-667[I] dated 12/01/2024)

ORDER
IN
CRL MP(MD) No.16791 of 2023
in
CRL A(MD) No.936 of 2023
Date :12/01/2024

RS//SAR-(12.01.2024) 6P 8C
Madurai Bench of Madras High Court is issuing
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