



CRL MP(MD) No.16193 of 2023

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

Wednesday, the Twenty Second day of May Two Thousand and Twenty Four

PRESENT

The Hon`ble Ms.Justice R.N.MANJULA
and
The Hon`ble Mr.Justice C.KUMARAPPAN

CRL.M.P(MD)Nos.16193 of 2023 and 423 of 2024
and
CRL.A(MD)Nos.936 and 963 of 2023

1 ILAVARASAN
2 KAVIARASAN
3 AJITH

... PETITIONER/ APPELLANT/ ACCUSED NO.7, 8 & 9
IN CRL MP(MD).16193/ 2023

VENILA

... PETITIONER/3RD APPELLANT/ ACCUSED NO.10
IN CRL MP(MD).423/2024

Vs

THE INSPECTOR OF POLICE
SILAIMAN POLICE STATION,
MADURAI DISTRICT.
CR.NO.63/2015

... RESPONDENT/RESPONDENT/COMPLAINANT
IN BOTH CRL MP's

Prayer in CRL MP(MD).16193/2023 in CRL A(MD).936/2023 :

To Suspend the Execution of Sentence by granting bail in SC No.567/2016 dt 11.09.2023 on the file of the learned VIth Additional Sessions Judge, Madurai, Madurai District till the disposal of the Criminal Appeal.

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

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

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judgement dated 11.09.2023 by acquitting the appellants and by allowing the Appeal.

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Prayer in CRL MP(MD). 423/ 2024 in CRL A(MD).963/2023 :

To suspend the sentence imposed on the petitioner by the Judgment dt.11.09.2023 made in SC No.567/2016 by the Honble IV Additional District Sessions Judge, Madurai and enlarge the petitioner on bail pending disposal of the present appeal in Crl A(MD)No.963 of 2023 in the interest of justice.

Prayer in CRL A(MD).963/2023 :

To call for the records and set aside the judgment dated 11.09.2023 made in S.C.No.567 of 2016 by the Hon'ble VI Additional District Sessions Judge, Madurai in the interest of justice.

Common 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.R.L.DHILIPAN PANDIAN, Advocate for the petitioners in CRL MP(MD).16193/2023 and MR.C.MUTHU SARAVANAN, Advocate for the petitioner in CRL MP(MD).423/2024 and of MR.RMS.SETHURAMAN, Additional Public Prosecutor on behalf of the Respondent in both CRL MP's, the court made the following order:-

(Order of the Court was made by R.N.MANJULA, J.)

These Criminal Miscellaneous Petition have been filed seeking suspension of sentence, whereby the petitioners / Accused Nos.7 to 10 were convicted and sentenced by the learned VI Additional Sessions Judge, Madurai, in S.C.No.567 of 2016 for the following offences:



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Sl. No.	Provisions under which convicted	Sentence of imprisonment	Fine amount	default sentence
1	Section 341 of IPC	To undergo one month rigorous imprisonment each	Rs.500/- each	1 week simple imprisonment
2	Section 302 r/w.149 IPC	To undergo life imprisonment each	Rs.500/- each	1 year simple imprisonment

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 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



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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 Nos.1, 6 and 10 have filed CRL.A(MD) No.963 of 2023 and Accused Nos.7 to 9 & 11 have filed CRL.A(MD)No.936 of 2023. Already, this Court by order dated 12.01.2024 in CrI.M.P.(MD).No.16791 of 2023, has suspended the sentence imposed on the 11th accused until further orders.

5.Learned counsel appearing for the petitioners submits that though the dying declaration recorded by PW18/learned Judicial Magistrate No.VI, Madurai, did not specifically point out the names of the accused 7 to 9, the FIR disclosed 11 accused



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persons which is fatal to the prosecution case. Further, though the prosecution witnesses are interested witnesses, there are contradictions in their evidence. Therefore, the learned counsel prays for suspending the sentence imposed on the petitioners herein.

6.Perusal of the memorandum of grounds of appeal and the arguments made by the counsel for the petitioners before this Court would show that there are arguable points involved in these criminal appeals and further the criminal appeals are not likely to be taken up for final hearing in the near future. In view of the same and considering the fact that co-accused/11th accused has already been granted suspension of sentence on 12.01.2024 in CRL.MP(MD)No.16791 of 2023, this Court is of the considered view that the petitioners herein are entitled to the relief of grant of suspension of sentence.

7.Accordingly, these petitions are allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with the following directions:-

(i) The petitioners are directed to be enlarged on bail on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties within a period of 10 days from the date of receipt of a copy of this order, each for a like sum to the satisfaction of the learned



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Judicial Magistrate No.II, Madurai.

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(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 petitioners 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/-
22/05/2024

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22/05/2024

Sub-Assistant Registrar (C.S. III)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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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 DISTRICT.

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

5 THE SUPERINTEDENT, CENTRAL PRISON, MADURAI.

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

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+1 CC to M/s.R.L.DHILIPAN PANDIAN, Advocate (SR-5557[I] dated 22/05/2024)

+1 CC to M/s.C.MUTHU SARAVANAN, Advocate (SR-5583[I] dated 22/05/2024)

ORDER

IN

CRL.M.P(MD)Nos.16193 of 2023 and 423 of 2024

and

CRL.A(MD)Nos.936 and 963 of 2023

Date :22/05/2024

RS//SAR-(22.05.2024) 7P 9C

Madurai Bench of Madras High Court is issuing
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