



CRL MP(MD) No.16074 of 2023

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

Friday, the Twentieth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice C.V.KARTHIKEYAN
and
The Hon`ble Mr.Justice J.SATHYA NARAYANA PRASAD

CRL MP(MD) No.16074 of 2023
in
CRL A(MD) No.1004 of 2023

1 PRABHU @ GERALD PRABHU

2 RAJ @ STALIN RAJ

... Appellants / Accused No.1 & 2

Vs

THE INSPECTOR OF POLICE
THENTHAMARAikulam POLICE STATION,
KANYAKUMARI DISTRICT.
(CRIME NO.120/2011).

... 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 by the Learned Additional District Judge (FTC), Nagercoil SC No.83/2012 dt.5/10/2023 and enlarge the appellants on bail pending disposal of the above criminal appeal.

Prayer in CRL A(MD) No.1004 of 2023:

To call for the records pertaining to the judgment rendered by the learned Additional District Judge (Fast Track Court), Nagercoil in S.C.No.83 of 2012 dated 05.10.2023 and set aside the same allowing the 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.SMA JINNAH, Advocate for the petitioners and of Mr.T.SENTHIL KUMAR, on behalf of the Respondents, the Court made the following order:-

The accused A1 and A2 in S.C.No.83 of 2012 on the file of the Additional District Court, Fast Track Court, Nagercoil who had suffered an order of conviction by judgment dated 05.10.2023 and were sentenced to undergo life imprisonment for substantial offence under Section 302 of IPC r/w. 34 of IPC and also fine of Rs.5000/- in default to undergo one year rigorous imprisonment have filed this petition seeking to suspend the sentence alone.

2. It is the case of the prosecution that there existed a civil dispute between the family of the defacto complainant and the family of the accused. This had created enmity between the two families. On 15.06.2011 at about 10.00 pm., when the defacto complainant and his elder brother and father had come back to the house of the defacto complainant, the accused are said to have knocked the door and when the father came out, it is stated that A1 using an iron rod and A2 using a wooden log had indiscriminately attacked him causing injuries on his fore head owing to which he had died.

3. The learned counsel appearing for the petitioners however contended that the entire incident took place 10.30 pm., in the night and the deceased/injured



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were taken to the hospital only at 12.30 a.m., It is stated that the deceased was under intoxication at that particular time. Therefore it is probably stated by the learned counsel for the petitioner that though he suffered injuries the cause of death could also probably be due to the intoxication.

4. The learned counsel further contended that the occurrence had taken place in the year 2011 and that the judgment had been pronounced in the year 2023 and during that period of more than ten years the accused were on bail and there was no complaint of any continuous animosity between the family of the complainant and the family of the accused. It is therefore contended that if the petitioners are let out on bail by suspending the sentence there would be no further retaliation for the occurrence which had taken place in the year 2011.

5. In this connection, a further affidavit had been filed by the son of the younger brother of the deceased.

6. It would not be proper on the part of us to place reliance on the said affidavit.

7. In the previous hearing date, the learned Additional Public Prosecutor had sought time to get further information relating to the animosity between the family of the deceased and the family of the accused. It is stated that there were often verbal quarrel between two families. It had also been stated that there would



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be possibility of the verbal quarrels further flurrying up .

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8. Taking into consideration the fact that the petitioners were on bail during the course of trial and taking note of the fact that there are arguable points to be advanced during the hearing of criminal appeal, we are inclined to entertain this petition and to suspend the sentence imposed against the petitioners. Accordingly, this Criminal Miscellaneous Petition is ordered and the imprisonment ordered by the trial Court through the impugned judgment, dated 05.10.2023 is suspended subject to the following conditions:-

i. The petitioners are directed to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees twenty five thousand only), each with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Additional District Judge, Fast Track Court, Nagercoil.

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

iii. The petitioners shall stay at Madurai and sign before the Othakadai Police Station on every Saturday at 10.30 AM until further orders.



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

sd/-
20/09/2024

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24/09/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

To

1.The Additional District Judge,
Fast Track Court, Nagercoil.

2.The Inspector of Police,
Thentharamaikulam Police Station,
Kanyakumari District.

3.The Superintendent,
Central Prison, Palayamkottai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Inspector of Police,
Othakadai Police Station,
Madurai.



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+1 CC to M/s.SMA.JINNAH, Advocate (SR-11480[I] dated 20/09/2024)

+1 CC to M/s.S.M.A.JINNAH, Advocate (SR-11615[I] dated 24/09/2024)

ORDER
IN
CRL MP(MD) No.16074 of 2023
in
CRL A(MD) No.1004 of 2023
Date :20/09/2024

ED/ /SAR- (24/09/2024) 6P / 8 C

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