



CRL MP(MD) No.16833 of 2023

WEB COPY

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

Friday, the Fifth day of July Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
and
The Hon`ble Mr.Justice K. RAJASEKAR

CRL MP(MD) No.16833 of 2023
IN
CRL A(MD) No.1058 of 2023

P.SOUNDARAPANDI @ SOUNDAR ... PETITIONER/ APPELLANT/
3rd ACCUSED

Vs

THE INSPECTOR OF POLICE
SILAIMAN POLICE STATION,
MADURAI
IN 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 imposed in SC No.567/2016 on the file of the VI Additional Sessions Judge, Madurai dt.11/9/2023 and enlarge the petitioner on bail pending disposal of this Criminal Appeal.

Prayer in Crl.A(MD).1058/2023:

Pleased to admit this appeal on file and to call for the records from the Trial Court in SC.No.567/2016 on the file of the VI Additional Sessions Judge, Madurai, Madurai District and to Set Aside the Judgment dated 11.09.2023 by acquitting this

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) No.16833 of 2023

Appellant and by allowing this Appeal.

WEB COPY

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.ALAGARSAMY S, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

The present petition has been filed by the appellant/3rd accused to suspend the sentence imposed on him by the learned VIth Additional Session's Judge, Madurai in S.C.No.567 of 2016.

2. The petitioner stands convicted and sentenced as under:

Section of Law	Sentence of imprisonment	Fine amount
302 I.P.C.	To undergo life imprisonment	Rs.5,000/- in default to undergo one year simple imprisonment
The sentences shall run concurrently		

3. The case of the prosecution is that P.W.1 Thiru.Veeramani is son of the deceased Karupasamy. A11 Muniyasamy was the former Karcherry Village Panchayat President. During the election in the year 2011, A11 was defeated and the



CRL MP(MD) No.16833 of 2023

WEB COPY

father of P.W.1 Karuppasamy was elected as Karcherry Panchayat President and

hence, there was motive between the deceased Karuppasamy and A1 Muniyasamy.

At this juncture, A1 Tamilselvam constructed the house encroaching the road.

Hence, the people of the Village has given a complaint to the Panchayat President

Thiru.Karuppasamy. In the mean time A1 Tamilselvam filed the writ petition before

this Court and the same was dismissed. Hence, the revenue officials have taken

action thereby removed the encroachment area by demolishing the building

constructed in the road on 26.02.20215. In view that motive, on 27.07.2015 all the

accused 1 to 12 unlawfully assembled with deadly weapons near the Murugan

Temple and attacked the deceased. Hence, P.W.1, P.W.2, P.W.3 and other witnesses

Ayyammal, Janarthanan rushed to the spot, at that time A1 Tamilselvam threatened

the witnesses with dire consequences. P.W.4 Thiru.Thandeeshwaran, who is also the

another son of the deceased, called the Apollo Hospital Ambulance and immediately

the injured was taken to Apollo Hospital, Madurai where he was under treatment.

At that time as per the requisition of the duty medical officer, P.W.18

Tmt.Mareeswari, Judicial Magistrate went to the Apollo Hospital by 20.00 hours,

where Dying Declaration was recorded in the presence of Dr.Mannan Rajan. The

Dying Declaration is marked as Ex.P29. P.W.1 lodged the complaint at 23.30 hours

which is marked as Ex.P1. Further, on the next day on 28.02.2015 at early morning



CRL MP(MD) No.16833 of 2023

5.35 hours the injured Karupasamy died.

WEB COPY

4. Learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case based on the mistaken identity. He would further submit that in the FIR, the P.W.1 has named Soundararajan, S/o.Pandi along with the other accused assaulted the deceased, whereas, the petitioner's name is Soundarapandi @ Soundar and he has been falsely implicated in this case.

5. He would further submit that a Dying Declaration is said to have been recorded by the Magistrate from the deceased and in that, the deceased has not named the petitioner and he has stated that the other accused along with the sons of Pandi have assaulted him. Further, in the Dying Declaration, the deceased had stated that no one else was available in the scene of occurrence and the persons who were with him were attending to some work inside the house and thereby ruling out the presence of P.W.1 and P.W.4, who are stated to be eye witnesses.

6. He further submitted that the alleged occurrence is said to have been taken place on 27.07.2015 at about 04.30 p.m., and even as per the prosecution, the deceased was said to have been taken to Apollo Hospital, Madurai on the same day at 05.00 p.m., and the treatment has been started at 05.30 pm., whereas the complaint has been given to the respondent police only at 11.30 p.m., its creating a grave doubt



CRL MP(MD) No.16833 of 2023

WEB COPY

in the case of the prosecution and it is also shows the possibility of false implication of persons after deliberation. Further, the trial Court taking into consideration the falsity and exaggeration, had acquitted the accused Nos.2,4 & 12. The petitioner has no previous case and this Court earlier by order dated 12.01.2024 in Crl.M.P(MD) No.16791 of 2023 has granted suspension of sentence for the 11th accused by order dated 22.05.2024 has granted suspension of sentence for the accused Nos.7,8,9 & 10 in Crl.M.P(MD)Nos.16193 of 2023 and 423 of 2024. He would also submit that the petitioner is in custody from the date of judgment hence, he seeks for indulgence of this court. and prayed for granting suspension of sentence.

7. The respondent filed counter affidavit. The learned Additional Public Prosecutor appearing for the respondent would submit that it is a case where the deceased, Panchayat President, who has taken action against the encroachment was done to death by the accused. Immediately, after the occurrence, the deceased was taken to Apollo Hospital, Madurai and he has given a Dying Declaration and the same was recorded by the Magistrate. He further submitted that the deceased though not specifically named the petitioner, has stated that sons of Pandi are also among the accused, who have assaulted him and he would object for grant of suspension of sentence.

8. Heard the learned counsel on either side and perused the materials



CRL MP(MD) No.16833 of 2023

available on record.

WEB COPY

9. In this case, in the dying declaration recorded by P.W.18/learned Judicial Magistrate No.VI, Madurai the deceased had not specifically pointed out the name of the accused. The material contradictions in the evidence of the eye witnesses also creates doubt. Having regard to the fact that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the period of incarceration and also taking into consideration the facts and circumstances of the case, we are inclined to suspend the sentence imposed on the petitioner by the Trial Court pending the Appeal.

10. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment imposed on the petitioner herein alone is suspended pending the Appeal, subject to the following conditions:

- i. The petitioner is directed to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees twenty five thousand only) 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 Judicial Magistrate No.II, Madurai.
- ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Committal Court may obtain



CRL MP(MD) No.16833 of 2023

a copy of their Aadhar card or Bank passbook 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/-
05/07/2024

/ TRUE COPY /

05/07/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

AM

TO

1 THE VI ADDITIONAL SESSIONS JUDGE,
MADURAI.

2 THE JUDICIAL MAGISTRATE NO.II,
MADURAI.

3 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, MADURAI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

5 THE INSPECTOR OF POLICE
SILAIMAN POLICE STATION,
MADURAI

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

<https://www.hmc.tn.gov.in/judis>



CRL MP(MD) No.16833 of 2023

WEB COPY

+1 CC to M/s.S.ALAGARSAMY, Advocate (SR-7500[I] dated 05/07/2024)

ORDER
IN
CRL MP(MD) No.16833 of 2023
IN
CRL A(MD) No.1058 of 2023
Date :05/07/2024

SA/SAR. /05.07.2024/8P/8C

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