



Crl.A.(MD) No.1087 of 2023

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

Thursday, the Eighteenth 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.M.P.(MD) Nos.18299, 18301 of 2023 and 3108 of 2024
in
Crl.A.(MD) No.1087 of 2023

ARUMAIKANINADAR	... PETITIONER/ APPELLANT/ ACCUSED 2 IN CRL.MP(MD).18299/ 2023
KAMARAJ	... PETITIONER/ APPELLANT/ ACCUSED 1 IN CRL.MP(MD).18301/ 2023
RAJATHI	... PETITIONER/ APPELLANT/ ACCUSED 3 IN CRL.MP(MD).3108/ 2024

Vs

THE INSPECTOR OF POLICE
SURANDAI POLICE STATION,
TENKASI DISTRICT.
CRIME NO.345/2014.

... RESPONDENT/RESPONDENT/COMPLAINANT
IN ALL THE PETITIONS

Prayer in CRL MP(MD). 18299/ 2023 :

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.185/2016 on the file of the Learned Additional District and Sessions Judge (FTC) Tenkasi, Tenkasi District and set aside the judgment dt.03.11.2023 till the disposal of the Crl A.



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Prayer in CRL MP(MD). 18301/ 2023 :

To Suspend the Execution of sentence by granting bail in SC No.185/2016 on the file of the Learned Additional District and Sessions Judge (FTC) Tenkasi , Tenkasi District and set aside the judgement dt.03.11.2023 till the disposal of the Crl A.

Prayer in CRL MP(MD). 3108/ 2024 :

To suspend the execution of sentence by granting bail in S.C No. 185/2016 on the file of the learned Addl District and Sessions Judge (FTC) Tenkasi, Tenkasi district and set aside the judgment dt. 03.11.2023 till the disposal of the criminal appeal

Prayer in CRL A(MD).1087/2023:

Pleased to admit this appeal on file, to call for the records from the lower court in S.C.No.185/2016 on the file of the Learned Additional District & Sessions Judge (FTC), Tenkasi, Tenkasi District and set aside the judgement dated 03.11.2023 by acquitting the appellants and by allowing the Appeal.

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 Mr.K.PRABHU, Advocate for the petitioner in all the Petitions and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent in all the Petitions, the court made the following order:-

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

The present petitions have been filed by the appellants/accused Nos.1,2 & 3 to suspend the sentence imposed on them by the learned Additional District and Sessions Judge (FTC), Tenkasi in S.C.No.185 of 2016, dated 03.11.2023.

2. The petitioners stand convicted and sentenced as under:



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Section of Law	Sentence of imprisonment	Fine amount
452 and 302 of IPC	A1 to undergo rigorous imprisonment for three years for an offence under Section 452 IPC.	Rs.2,000/- in default to undergo one year simple imprisonment.
	A1 to undergo life imprisonment under Section 302 IPC	Rs.2,000/- in default to under one year simple imprisonment
302 r/w 34 IPC	A2 and A3 to undergo life imprisonment each	Rs.2,000/- in default to undergo one year simple imprisonment each.
The sentences shall run concurrently		

3. The case of the prosecution is that the accused No.2 namely Arumaikani Nadar and P.W.2 by name Samuthirakani are brothers and there was a civil dispute relating to an ancestral property among the accused No.2 and his brother P.W.2. Out of that motive, on 29.12.2014 at about 08.00 a.m., the accused No.1 has threatened the deceased and further on 31.12.2014 at about 12.45 a.m., all the accused persons came

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in front of the house of P.W.1 and abused them by using filthy language and on the instigation of the accused Nos.2 & 3 the accused No.1 has trespassed into the house of the P.W.1 and attacked the said Thirumalaikumar with Panaruval and caused injuries and out of that injuries Thirumalaikumar died and based on the complaint given by P.W.1 being the mother of the deceased, the present case came to be registered in Crime No.345 of 2014 for the offence under Sections 120(b), 294(b), 109, 452, 302 r/w 34 IPC as against the accused persons.

4. Learned counsel appearing for the petitioners would submit that the second appellant is the brother of P.W.1 and the deceased is son of P.W.2. The incident is a offshoot of a quarrel. P.W.2 is the aggressor and he is the person, who has inflicted the injury on the left shoulder of A1 and based on the complaint given by the appellant side, a case in Cr.No.346 of 2014 was registered against him. He would further submit that based on the earlier quarrel created by P.W.2 and assaulting A1 the incident happened. He would further submit that there was no intention on the part of the petitioners to commit the murder and it had happened only due to provocation by P.W.2, who has inflicted the injury on A1. He further submitted that A2 and A3 are the senior citizon and they also said to have followed A1. Even as per the prosecution, the weapon used is a small sickle (பன் அருவாள்) used for reaping grass. He further submitted that the prosecution has not explained



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the injuries on the neck of A1. He would also submit that the petitioners are in custody from the date of judgment hence he seeks for indulgence of this court.

5. The learned Additional Public Prosecutor appearing for the respondent would submit that due to property dispute, the petitioners tres-passed into the house of the deceased and committed murder by assaulting him with sickle. The deceased is the son of P.W.1 and P.W.2 and thereby, he would vehemently oppose for grant of bail to the petitioners.

6. Heard the learned counsel on either side and perused the materials available on record.

7. Having gone through the records, we find that it is a case and case in counter and there is no explanation in respect of the injuries suffered by A2 and 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 petitioners by the Trial Court pending the Appeal.

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



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- 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 District Munsif-cum-Judicial Magistrate, Sengottai.
- ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Committal Court may obtain a copy of their Aadhar card or Bank passbook to ensure their identity.
- iii. The petitioners shall report before the District Munsif-cum-Judicial Magistrate, Sengottai on the first working day of every month at 10.30 am., until further orders.
- iv. It is made clear that the petitioner shall not enter into the jurisdictional limits of the respondent Police Station until further orders.

sd/-
18/07/2024

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19/07/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

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1 THE ADDITIONAL DISTRICT & SESSIONS JUDGE (FTC),
TENKASI,
TENKASI DISTRICT.

2 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, SENGOTTAI.

3 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, TIRUNELVELI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

5 THE SUPERINTENDENT,
CENTRAL PRISON FRO WOMEN, MADURAI DISTRICT.

6 THE INSPECTOR OF POLICE
SURANDAI POLICE STATION,
TENKASI DISTRICT.

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

+3 CC to M/s.K.PRABHU, Advocate (SR-8071, 8072 & 8073[I] dated 18/07/2024)

ORDER IN
Crl.M.P.(MD) Nos.18299, 18301 of 2023 and 3108 of 2024
in

Crl.A.(MD) No.1087 of 2023

Date :18/07/2024

SA/SAR. /19.07.2024/7P/11C

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