



Crl.M.P.(MD) No.11 of 2024

WEB COPY

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

Friday, the Twenty Sixth 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) No.11 of 2024
in
Crl.A.(MD) No.1086 of 2023

SUTCHAMUDAIYAN

... PETITIONER/ APPELLANT/
ACCUSED NO.2

Vs

THE INSPECTOR OF POLICE
KADAIYAM POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.34/2019).

... 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.69/2020 on the file of the Learned IIIrd Additional District and Sessions Judge, Tirunelveli, Tirunelveli District dt.12/10/2023 till the disposal of the Criminal Appeal.

Prayer in Crl.A.(MD) No.1086 of 2023:

To admit this appeal on file, to call for the records from the lower court in S.C.No.69/2020 on the file of the learned IIIrd Additional District and Sessions Judge, Tirunelveli, Tirunelveli District dated 12.10.2023 by acquitting the accused and by allowing the Appeal.



Crl.M.P.(MD) No.11 of 2024

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.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.]

Seeking to suspend the sentence imposed on the petitioner by the learned III Additional District and Sessions Judge, Tiruenveli, vide order dated 12.10.2023 in S.C.No.69 of 2020, he has filed this criminal miscellaneous petition.

2. The petitioner stands convicted and sentenced as under:

Section of Law	Sentence of imprisonment	Fine amount
120(B) IPC	To undergo Life imprisonment	Rs.1000/-, in default to undergo one month simple imprisonment.
302 I.P.C.	To undergo life imprisonment	Rs.1,000/- in default to undergo one month simple imprisonment
201 IPC	To undergo 3 years Rigorous Imprisonment	Rs.1,000/- in default to undergo one month simple imprisonment
The sentences shall run concurrently		



Crl.M.P.(MD) No.11 of 2024

3. The case of the prosecution is that one Rajakumari had made a complaint before the respondent police as against the petitioner/ A2 and the first accused herein. Though the petitioner and the other accused requested the said Rajakumari to withdraw the complaint, the said Rajakumari refused to withdraw the same. Hence, the accused persons conspired together and murdered the husband of P.W.1 on 10.10.2019 by causing injuries with liquor bottle and rough stone on his head.

4. The learned counsel for the petitioner submitted that it is the case of circumstantial evidence. Though P.W.7 had stated that he had seen the accused along with the deceased on 10.10.2019 at 5.45 p.m., subsequently, he had deposed that P.W.1, wife of the deceased called P.W.7 at 07.00 p.m., on the same day and he had not told about having last seen the accused and deceased together. Further, other than the motive regarding enmity, there is no other evidence available connecting the accused to the crime. The motive however strong cannot take the place of proof, unless it is supported by legal evidence and the trial Court without taking into consideration of the same and without there being proof linking the accused to the crime, has found the accused guilty.

5. The learned Additional Public Prosecutor for the respondent - Police

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



Crl.M.P.(MD) No.11 of 2024

WEB COPY

submitted that there is a previous enmity between the petitioner and the deceased regarding withdrawal of a case registered by the wife of the deceased. The wife of the deceased, P.W.1 has also spoken about the previous enmity between the accused and the deceased. The trial Court has also found that P.W.7 has also spoken about having lastly seen the accused along with the deceased. Thereby, he would vehemently oppose for grant of suspension of sentence.

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

7. It is seen that it is a case of circumstantial evidence and the petitioner is the second accused. 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.

8. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment imposed on the petitioner herein alone is



Crl.M.P.(MD) No.11 of 2024

suspended pending the Appeal, subject to the following conditions:

WEB COPY

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, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned III Additional District and Sessions Court, Tirunelveli.

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 petitioner shall stay at Salem and report before the Inspector of Police, Fair Land Police Station, Salem every day 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/-
26/07/2024

/ TRUE COPY /

30/07/2024
Sub-Assistant Registrar (CS-I/ II / III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ta

TO

1.THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, TIRUNELVELI.

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



Crl.M.P.(MD) No.11 of 2024

2.THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.

WEB COPY

3.THE INSPECTOR OF POLICE

KADAIYAM POLICE STATION, TIRUNELVELI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,

MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE INSPECTOR OF POLICE, FAIR LAND POLICE STATION, SALEM

+1 CC to M/s.K.PRABHU, Advocate (SR-8777[I] dated 26/07/2024)

ORDER IN

Crl.M.P.(MD) No.11 of 2024

in Crl.A.(MD) No.1086 of 2023

Date :26/07/2024

RK (30/07/2024) 6P / 7C

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