



Crl.M.P.No.4465 of 2024  
in Crl.A.No.301 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2025

CORAM:

**THE HONOURABLE MR. JUSTICE M.S.RAMESH  
AND  
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR**

Crl.M.P.No.4465 of 2024  
in Crl.A.No.301 of 2024

1.Prakash

2.Karthick

... Petitioners

***Vs.***

The State rep. by  
The Inspector of Police,  
D3 Ice House Police Station,  
Chennai.

... Respondent

**PRAYER:** Criminal Miscellaneous Petition filed under Section 389(1) of the Criminal Procedure Code, seeking to suspend the sentence imposed by the order passed against the petitioners in S.C.No.287 of 2021 on 30.01.2024 by the learned XVII<sup>th</sup> Additional Sessions Judge, Chennai and enlarge the petitioners on bail pending disposal of the Criminal Appeal.



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For Petitioners : Mr.P.Thinesh  
For Respondent : Mr.S.Rajakumar,  
Additional Public Prosecutor

**ORDER**

(Order of the Court was made by *N.SENTHILKUMAR, J.*)

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioners by the learned XVII<sup>th</sup> Additional Sessions Judge, Chennai on 30.01.2024 in S.C.No.287 of 2021 and enlarge them on bail.

2. The learned XVII<sup>th</sup> Additional Sessions Judge, Chennai, in S.C.No.287 of 2021, has convicted the petitioners and sentenced them as follows:-

|                       | <b><i>Offence</i></b>     | <b><i>Sentence imposed</i></b>                                                                                            |
|-----------------------|---------------------------|---------------------------------------------------------------------------------------------------------------------------|
| <b><i>Accused</i></b> | Section 450 of IPC        | 10 years of rigorous imprisonment along with a fine of Rs.5,000/- in default to undergo simple imprisonment for 6 months. |
|                       | Section 302 r/w 34 of IPC | Life imprisonment along with a fine of Rs.5,000/- in default to undergo simple imprisonment for 6 months                  |

The sentences are ordered to run concurrently.



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**3.** Challenging the above conviction and sentence, the petitioners have filed the above Criminal Appeal and they seek for suspension of sentence and bail in the present miscellaneous petition.

**4.** Heard Mr.P.Thinesh, learned counsel appearing for the petitioners and Mr.S.Rajakumar, learned Additional Public Prosecutor, appearing for the respondent/Police.

**5.** The case of the prosecution is that the petitioners are arrayed as A2 and A3 respectively and A1 was acquitted by the Trial Court. The prosecution have projected P.W.1, P.W.2 and P.W.4 as eye witnesses. P.W.3 had seen the deceased, who was injured, along with P.W.1 and P.W.2 and had sent all of them to Royapettah Government Hospital.

**6.** We find some material contradictions in the evidences of these witnesses. While P.W.1 would state that all the three accused were armed with knife and cutter and had assaulted the deceased, P.W.2 had implicated A1 and A2 alone of having assaulted the deceased and P.W.4 had



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implicated A2 and A3 of having assaulted the deceased. The Trial Court had already disbelieved the evidence of P.W.1. Since there are material contradictions with regard to the overt acts attributed towards A1 to A3, the judgment of the Trial Court, on a *prima facie* view, may warrant interference.

7. Since 31.01.2024, when the judgment of the Trial Court was passed, the petitioners herein have been in prison. We are also conscious of the fact that the appeal is not likely to be taken up in the near future and hence, on the above *prima facie* grounds, we are inclined to suspend the sentence of the petitioners.

8. Accordingly, this Criminal Miscellaneous Petition stands **allowed** and the sentence imposed on the petitioners, is suspended, on the following conditions:-

- (i) The petitioners shall execute a bond for a sum of Rs.25,000/- each, with two sureties each, for a like sum to the satisfaction of the learned XVII Additional Sessions Judge, Chennai;



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(ii) The petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and

(iii) The petitioners shall appear before the Trial Court on 1<sup>st</sup> and 15<sup>th</sup> working day of every month at 10.30 A.M., until the disposal of the appeal and if they are not able to appear before the Trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day, in lieu of the date of their absence, as directed by the Trial Court.

(M.S.R, J.)

(N.S, J.)

19.02.2025

Index: Yes/No

***Sni***

*Note: Issue Order Copy on 24.02.2025*



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**M.S.RAMESH, J.**  
**and**  
**N.SENTHILKUMAR, J.**

*Sni*

To

1.The XVII<sup>th</sup> Additional Sessions Judge,  
Chennai.

2.The Inspector of Police,  
D3 Ice House Police Station,  
Chennai.

3.The Superintendent,  
Central Prison,  
Puzhal.

4.The Public Prosecutor,  
High Court, Madras.

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