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*Crl.M.P.No.7885 of 2024
in Crl.A.No.676 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2025

CORAM:

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

Crl.M.P.No.7885 of 2024
in Crl.A.No.676 of 2024

Thangavel
S/o.Kaveri

... Petitioner

Vs.

The State represented by
The Inspector of Police
Edapadi Circle,
Thevoor Police Station.
(Crime No.67 of 2015)

... Respondent

PRAYER: The Criminal Miscellaneous Petition is filed under Section 389 (1) of Cr.P.C. praying to suspend the judgment of conviction and sentence dated 19.03.2024 in S.C.No.166 of 2016 on the file of the II Additional District and Sessions Judge, Salem, pending disposal of the Criminal Appeal.



*Crl.M.P.No.7885 of 2024
in Crl.A.No.676 of 2024*

WEB COPY

For Petitioner : Mr.J.Jayan

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

ORDER

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

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence of imprisonment imposed in judgment dated 19.03.2024 made in S.C.No.166 of 2016 on the file of the II Additional District and Sessions Judge, Salem, pending disposal of the Criminal Appeal before this Court.

2. The learned II Additional District and Sessions Judge at Salem, in S.C.No.166 of 2016, has convicted the petitioner and sentenced him as follows:-



*Crl.M.P.No.7885 of 2024
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WEB COPY

<i>S. No</i>	<i>Offence</i>	<i>Sentence Imposed</i>	<i>Fine Imposed</i>	<i>In default of fine payment simple imprisonment</i>
1.	U/s. 148 IPC	3 years Rigorous Imprisonment	Nil	Nil
2.	U/s. 449 IPC	10 years Rigorous Imprisonment	2000	Three months Simple Imprisonment
3.	U/s. 324 r/w 149 IPC	3 years Rigorous Imprisonment	NIL	NIL
4.	U/s.302 r/w 149 IPC	Rigorous Imprisonment of Life	5000	Six months Simple Imprisonment
5.	U/s.3(1) of TNPPDL Act	3 Years Rigorous Imprisonment	2000	Three Months Simple Imprisonment
Total Fine Amount Rs.9,000/- (Rupees Nine Thousand Only)				
U/s.428 Cr.P.C ordered to be set off the previous in duress period of accused during investigation and trial				
Ordered to undergo the above sentence concurrently				
Petitioner is acquitted for the commission of offence U/s.120(B), 342 r/w 149 & 506 (ii) IPC				

3. Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present Miscellaneous Petition.



*Crl.M.P.No.7885 of 2024
in Crl.A.No.676 of 2024*

WEB COPY

4. Heard Mr.J.Jayan, learned counsel appearing for the petitioner and Mr.S.Raja Kumar, learned Additional Public Prosecutor, appearing for the respondent Police.

5. The overt act attributed by the prosecution against the petitioner herein is that he had assaulted the deceased with a brick on his body as per the version of P.W.1 and P.W.2. As per the medical evidence, the cause of injury for the death of the deceased is owing to the head injury. Apparently, the overt act attributed to the petitioner herein is having attacked the deceased on his body and not on the head. In this background, this Court is inclined to suspend the sentence imposed on the petitioner. This apart, on the same ground, we had earlier considered the suspension of sentence in the case of 5th accused through the order passed in Crl.M.P.No.6900 of 2024 in Crl.A.No.470 of 2024 dated 20.02.2025.



*Crl.M.P.No.7885 of 2024
in Crl.A.No.676 of 2024*

WEB COPY

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

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum to the satisfaction of the learned II Additional District and Sessions Judge, Salem.
- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity;
- (iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m., until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.



WEB COPY



*Crl.M.P.No.7885 of 2024
in Crl.A.No.676 of 2024*

(iv) On the failure of any of the above conditions by the petitioner / accused, it is open to the trial Court to commit the petitioner / accused into custody for undergoing the sentence.

**(M.S.R, J.) (N.S, J.)
02.04.2025**

ASI

Note: Issue order copy on 03.04.2025

To

1. The II Additional District and Sessions Judge, Salem.
2. The Inspector of Police
Edapadi Circle, Thevoor Police Station.
3. The Superintendent, Central Prison, Salem.
4. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.



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*Crl.M.P.No.7885 of 2024
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Crl.M.P.No.7885 of 2024
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