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*Crl.M.P.Nos.9993 & 9994 of 2025
in Crl.A.Nos.478 & 479 of 2025*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 16.05.2025
Pronounced on : 21.05.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.Nos.9993 & 9994 of 2025
in Crl.A.Nos.478 & 479 of 2025

Selvaraj

... Petitioner in
Crl.M.P.No.9993 of 2025

Rajkamal

... Petitioner in
Crl.M.P.No.9994 of 2025

Vs.

The Inspector of Police (Law & Order),
G3 Kilpauk Police Station,
Chennai – 600 010.
(Crime No.331 of 2018)

... Respondent in
both Crl.M.Ps

COMMON PRAYER: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, to suspend the sentence of imprisonment passed against the petitioners herein in S.C.No.266 of 2021 dated 21.04.2025 by the learned XVI Additional District Sessions Judge, Chennai.



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For Petitioners : Mr.T.Muruganantham
for Mr.C.V.Kumar

For Respondent : Mr.R.Vinoth Raja
Government Advocate (Crl. Side)

COMMON ORDER

Crl.M.P.No.9993 of 2025 is filed by A1 and Crl.M.P.No.9994 of 2025 is filed by A2. These petitions filed to suspend the sentence imposed on the petitioners/accused by the Trial Court in S.C.No.266 of 2021 by judgment dated 21.04.2025.

2.For the sake of convenience and clarity, the petitioners are referred to as per their ranking in the Trial Court.

3.The conviction and sentence imposed on the petitioners/A1 and A2 are as follows:

- For offence under Section 294(b) IPC, A2 was sentenced to undergo simple imprisonment for three months
- For offence under Section 324 IPC, A1 was convicted on two counts



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and sentenced to undergo one year simple imprisonment on each count.

- For offence under Section 326 r/w. 34 IPC, A1 and A2 were sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs.25,000/- each, in default, to undergo one simple imprisonment each.
- For offence under Section 506(ii) r/w.34 IPC, A1 and A2 were sentenced to undergo one year rigorous imprisonment.

All the sentences to run concurrently. Against which, the present appeal and suspension of sentence petition filed.

4.A1 in this case is the father and A2 is his son. The case projected against the petitioners is that on 08.07.2018 at about 5.10 p.m., P.W.1 was standing, at that time, A2 due to previous enmity attacked him with dangerous weapon and A1/father joined his son/A2. P.W.2, husband of P.W.1's sister saved him by pulling the knife and sustained cut injury between index finger and thumb. P.W.1 was stabbed on his left side stomach. Both P.W.1 and P.W.2 taken to Kilpauk Medical College Hospital. P.W.12/Casualty Doctor examined P.W.1 and P.W.2 and issued Accident Register. P.W.14 conducted surgery and saved the life of P.W.1.



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P.W.15 received information from the Hospital, visited the injured in the hospital, recorded their statements, thereafter visited the scene of occurrence, prepared observation mahazar and rough sketch in the presence of witnesses, recorded the statement of witnesses and on collecting the medical records, filed charge sheet in this case. During trial, P.W.1 to P.W.16 examined, Ex.P1 to Ex.P10 marked and M.O.1 produced on the side of the prosecution. On the side of the defence, no witness examined and no documents marked. On conclusion of trial, the Trial Court convicted the petitioners as stated above.

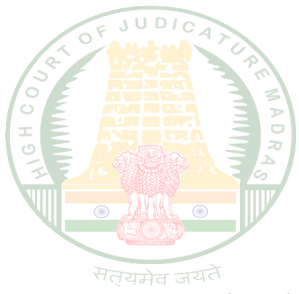
5.The contention of the learned counsel for the petitioners is that P.W.2 is the husband of P.W.1's sister, P.W.1 was in a drunken state, picked up quarrel with P.W.2 and attempted to attack him with a knife, the petitioners intervened and attempted to save P.W.2, in the melee, there was a push and pull, in that process, P.W.2 sustained cut injury. The scuffle between P.W.1 and P.W.2 lead to stab injury to P.W.1, since the accused had previous animosity, their intervention projected as attack and they are falsely implicated. In this case, the projected eye witnesses P.W.3, wife of



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P.W.1 and P.W.6, wife of P.W.2 and sister of P.W.1. He would submit that P.W.3, wife of P.W.1 was not present in the scene of occurrence, but gives an exaggerated version as though A1 stabbed her husband on his neck and P.W.2 intervened and sustained injury. The injury to P.W.1 is on the left side of the stomach. P.W.4, a neighbour confirms that P.W.1 was in a drunken state. Further, P.W.1 earlier attacked one of the local resident, who went to the hospital for treatment. P.W.5, another resident not supported the case of the prosecution. P.W.6, wife of P.W.2 states that three days before there was a quarrel between the accused and P.W.1 and further, her version is that she took her injured husband first to the Police Station, admits that her husband is in the habit of consuming liquor regularly. P.W.7, a neighbour confirms that P.W.1 under the influence of alcohol attacked P.W.4. Further, P.W.7 was pushed and attacked by P.W.1 and P.W.7 went to the Police Station to lodge a complaint. In this case, P.W.8 and P.W.9, witnesses for observation mahazar/Ex.P2 and rough sketch/ExP8 not supported the case of the prosecution. Likewise, P.W.10, P.W.11 and P.W.13, witnesses for arrest and recovery not supported the case of the prosecution. P.W.12/Doctor confirms the injury sustained by P.W.2 is

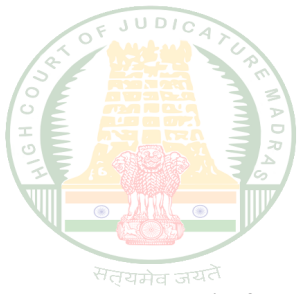


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simple in nature and since the injury sustained by P.W.1 is on the abdomen which is a soft tissue, a small impact would cause grievous injury. In this case, the version given by the Investigating Officer whether information was received by the Police from the hospital or complaint lodged directly in the Police Station by the injured is not clear. Except for the evidence of P.W.1, P.W.2, P.W.3 and P.W.6, no public witness supported the case of the prosecution. It is P.W.1 who was in a drunken state picked up quarrel with P.W.2 and assaulted him, since the petitioners who are neighbours, intervened having some dispute are now roped in. The Trial Court failed to consider these aspects and had gone by uncorroborated version of the interested witnesses. In any event, the conviction imposed on the petitioners is not sustainable. Hence, prayed for suspension of sentence.

6.The learned Government Advocate (Crl. Side) submits that in this case there are two injured witnesses, P.W.1 and P.W.2. P.W.1 sustained stab injury on the left side of his stomach which is confirmed by P.W.12. P.W.2 is the other injured witness who sustained cut injury between the left index finger and thumb. P.W.12/Casualty Doctor treated the injured and

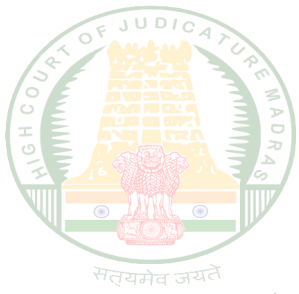


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information was sent to the respondent police, who visited the hospital, recorded the statement of the injured, thereafter visited the scene of occurrence, prepared observation mahazar and rough sketch, enquired the witnesses present in the scene of occurrence, recorded their statement, arrested the accused and on their confession, M.O.1/knife recovered. P.W.1 sustained stab injury and he was saved due to timely medical assistance which is confirmed by P.W.12 and P.W.14. P.W.1 took treatment as inpatient from 08.07.2018 to 21.07.2018. Accident Register and Wound Certificate/Ex.P6 confirms the same. On completion of investigation, charge sheet filed before the Trial Court. P.W.1 and P.W.2 identified the accused on the attack corroborated by P.W.3 and P.W.6. He would submit that merely because P.W.3 and P.W.6 are the wives of P.W.1 and P.W.2 for that reason alone their evidence cannot be doubted and discarded. The Trial Court considering all these aspects rightly convicted the petitioners.

7.Considering the submissions made and on perusal of the materials, it is seen that in this case, P.W.1 and P.W.2 are injured witnesses. P.W.12/Casualty Doctor initially treated them and recorded Accident



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Register. P.W.1 took treatment as inpatient, confirmed by P.W.14. In this case, P.W.1 was in a drunken state, he picked up quarrel with P.W.2, the petitioners/neighbours intervened. P.W.4, another neighbour confirms he was assaulted by P.W.1., who was in a drunken state. P.W.7, yet another neighbour confirms that he was also assaulted by P.W.1 and he had gone to Police Station to lodge a complaint. This foundational fact not considered by the Trial Court. There is a discrepancy and contradictions between the evidences of P.W.1, P.W.2, P.W.3 and P.W.6. The presence of P.W.3 and P.W.6 doubtful. In any event, the conviction of the petitioners needs reconsideration. Hence, this Court is inclined to grant suspension of sentence till the disposal of the criminal appeal.

8.Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioners is suspended till the disposal of the appeal and they are ordered to be enlarged on bail, on condition that each of them shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned II Metropolitan Magistrate, Egmore, Chennai.



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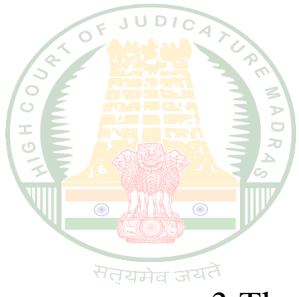
9.Further, the petitioners shall appear before the Trial Court on the first working day of once in three months at 10.30 a.m. until the disposal of the criminal appeal. If the petitioners are not able to appear before the Trial Court on that day, they shall make arrangements to file an application under 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. Accordingly, these Miscellaneous Petitions are ordered.

21.05.2025

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To

- 1.The Inspector of Police (Law & Order),
G3 Kilpauk Police Station,
Chennai – 600 010.
- 2.The XVI Additional District Sessions Judge,
Chennai.



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3.The II Metropolitan Magistrate,
Egmore, Chennai.

4.The Superintendent,
Central Prison, Puzhal,
Chennai.

5.The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.

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Pre-delivery order made in

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