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Crl.M.P.No.19542 of 2023
in Crl.A.No.612 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

Crl.M.P.No.19542 of 2023
in Crl.A.No.612 of 2022

Vijayakumar

... Petitioner

Vs.

State rep. by
The Inspector of Police
Thalayamangalam Police Station
Thiruvarur District
(Crime No.68/2018)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of the Criminal Procedure Code, praying to suspend the sentence imposed by the learned Principal District and Sessions Judge, Thiruvarur, in S.C.No.42 of 2019 dated 19.04.2022 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.Swamisubramanian

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

M.S.RAMESH, J.
AND
V.LAKSHMINARAYANAN, J.

The petitioner herein has challenged his sentence of life imprisonment in the main appeal. In the present petition he seeks for suspension of sentence.

2. Learned Principal District and Sessions Judge, Thiruvarur, in S.C.No.42 of 2019, has convicted the petitioner and sentenced him as follows:-

<i>Offence</i>	<i>Sentence imposed</i>
U/s.302 IPC	Life Imprisonment along with a fine of Rs.5,000/- in default S.I. for six months.

3. Heard Mr.Swamisubramanian, learned counsel appearing for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor, appearing for the respondent Police.

4.The prosecution has projected PW.1 - son of the deceased, PW.2 -



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wife, PW.3- neighbour and PW.4 - mother, as the eye witnesses to the incident. The appellant herein is alleged to have killed his own brother with a spear. According to the eye witnesses account of all the accused, the appellant had inflicted one piercing wound in the neck of the deceased. However, the postmortem doctor PW.11, in his evidence has testified that there was a cut injury with an entry and exit wound in the stomach portion of the deceased measuring 5 x 2 c.m. On a perusal of evidence of the ocular witnesses, none of them have attributed any overt act on the accused, with regard to this injury. The evidences also suggest that owing to the Gaja cyclone, there was no power supply in the entire village for one month before the date of occurrence and it was pitch dark at that relevant point of time. All these pieces of evidence may suggest that the ocular witnesses could not have been present in the scene of occurrence. However, we have recorded this prima facie view only for the purpose of considering the petitioner's request for suspension of sentence. We have also taken into account that the petitioner has been in incarceration for the past three years, and the appeal may not be taken for final disposal in the near future. Hence, we are inclined to consider suspending his sentence.



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5. 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, each for a like sum to the satisfaction of the learned Judicial Magistrate No.1, Mannargudi, Thiruvarur District.

(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 is directed to appear before the trial Court on the first working day of every English Calendar 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 Cr.P.C. and shall appear before the trial Court on any



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*other day in lieu of the date of his absence, as directed
by the trial Court;*

*(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.)

(V.L.N, J.)

09.07.2025

kas

Note: Issue Order Copy on 10.07.2025

To

1.The Principal District and Sessions Judge
Thiruvavur

2.The Inspector of Police
Thalayamangalam Police Station
Thiruvavur District
(Crime No.68/2018)

3.The Superintendent
Central Prison
Thiruchirapalli

4.The Public Prosecutor
High Court of Madras
Chennai 600 104



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M.S.RAMESH, J.
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