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Crl.M.P.Nos.18042 & 18457 of 2024 in Crl.R.C.No.2332 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.Nos.18042 & 18457 of 2024
in Crl.R.C.No.2332 of 2024

1. Paramasivam
2. Narayanan

... Petitioners/Accused 1 & A2

Vs.

The State

Rep. by the Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Thiruvanmiyur,
Chennai – 600 041.

(Crime No.2265 of 2017)

... Respondent

PRAYER in Crl.M.P.No.18042 of 2024: Criminal Miscellaneous Petition filed under Section 389 of Cr.P.c., to suspend the sentence imposed in Crl.A.No.208 of 2023 dated 05.12.2024 on the file of the learned XIX Additional Judge, City Civil Court, Chennai, in confirming the Judgment dated 05.04.2023 passed in C.C.No.2398 of 2018 by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai till the disposal of above Criminal Revision.

PRAYER in Crl.M.P.No.18457 of 2024: Criminal Miscellaneous Petition filed under Section 482 of Cr.P.C, to exempt the petitioners from surrendering pursuant to the order of conviction passed in C.C.No.2398 of 2018 dated 05.04.2023 on the file of the XVIII Metropolitan Magistrate Court at Saidapet, Chennai, which was confirmed in Crl.A.No.208 of 2023 dated 05.12.2024 on the file of the XIX Additional City Civil Court at Chennai, pending disposal of the present Criminal



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Revision Petition.

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For Petitioners : Mr.R.Jayaprakash
For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

COMMON ORDER

These Criminal Miscellaneous Petitions have been filed seeking to suspend the sentence imposed on the petitioners/A1 & A2 by judgment dated 05.04.2023 passed in C.C.No.2398 of 2018 by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai and confirmed by the learned XIX Additional Judge, City Civil Court, Chennai, vide Judgment dated 05.12.2024 in Crl.A.No.208 of 2023 and enlarge the petitioners on bail and to exempt them from surrendering before the trial Court, pending disposal of the above revision.

2. It is the case of the prosecution that on 04.07.2017 at about 4.15 p.m., while the petitioners/A1 & A2, who were working in the Tamil Nadu Electricity Board, as Assistant Engineer and Foreman, respectively; and that when they were doing repair work in the EB line through the deceased and other injured witnesses, the deceased suffered an electric shock and the other workers suffered severe injuries.



3. The petitioners were convicted by the trial Court for the offence under Section 304A of the IPC and each of the petitioners were sentenced to undergo simple imprisonment for one year and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for six months. On appeal, the said conviction and sentence was confirmed by the lower Appellate Court.

4. The learned counsel for the petitioners would submit that the prosecution had not established that the petitioners had committed gross negligence, so as to convict them for the offence under Section 304A of the IPC; that the evidence adduced on the side of the prosecution would suggest that it is only an accident; and that hence the petitioner is entitled to exemption from surrender and for suspension of sentence.

5. Heard the learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials available on record.

6. The petitioners have raised substantial grounds, which require consideration and the question as to whether the petitioners had committed gross negligence, so as to attract the offence under Section



304A of the IPC, has to be adjudicated in this revision.

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7. Therefore, considering the nature of the allegations and the fact that there are arguable points in the above revision and that the revision is not likely to be taken up in the near future and the period of sentence of imprisonment imposed on the petitioners/accused, this Court is inclined to suspend the sentence imposed on the petitioners/accused and exempt them from surrendering before the trial Court.

8. Accordingly, these criminal miscellaneous petitions stand **allowed**. The sentence of imprisonment imposed on the petitioners/A1 and A2, is suspended and they are exempted from surrendering before the trial court, on the following conditions till the disposal of the above Criminal Revision:

- (i) Each of the petitioners shall execute a bond for a sum of Rs.10,000/-, with two sureties, each for a like sum to the satisfaction of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai;
- (ii) The petitioners 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; and

(iii) The petitioners 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 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.

02.01.2025

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To

1. The XIX Additional Judge,
City Civil Court, Chennai.
2. The XVII Metropolitan Magistrate,
Saidapet, Chennai.
3. Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Thiruvanmiyur,
Chennai – 600 041.
4. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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