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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 24.01.2025

Pronounced on : 31.01.2025

CORAM

THE HONOURABLE MR JUSTICE P.VADAMALAI

CRL MP(MD) NOS. 845 and 846 of 2025

in

Crl.R.C(MD)Nos.992 and 1010 of 2024

M.Chinnapandi
S/o. Murugan @ Vai.Ko.Murugan,
No.198, Ayyan Kovil Street,
Marukalakurichi,
Tirunelveli District.

....Petitioner in
Crl.M.P(MD)No.845 of 2025

1.Murugan @ Vai.Go.Murugan
S/o. Chinnapandi Thevar,
Anna Salai Main Road, Nanguneri,
Tirunelveli District.

2.Selvam
S/o.Murugan @ Vai.Go.Murugan,
Anna Salai Main Road,
Naguneri,
Tirunelveli District.

....Petitioners in
Crl.M.P(MD)No.846 of 2025

Vs.

The State of Tamil Nadu
Rep. by The Inspector of Police,
Nanguneri Police Station,
Tirunelveli District.
Crime No.127 of 2008.

...Respondent
in both Crl.M.Ps.



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For Petitioners : Mr. R.Anand
in CrI.M.P(MD)No.845 of 2025

: Mr.K.Suyambulinga Bharathi
in CrI.M.P(MD)No.846 of 2025

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (CrI.side) in both CrI.M.Ps

COMMON ORDER

The petitioners have filed these respective petitions to enlarge them on bail by suspending the sentence imposed on them in conviction judgment, dated 15.09.2016 made in S.C.No.243 of 2011 on the file of the learned Assistant Sessions Judge, Valliyoor, which was confirmed and modified the sentence by the learned III Additional District and Sessions Judge, Tirunelveli in CrI.A.No.59 of 2016 by judgment, dated 28.08.2024, till the disposal of the Criminal Revision Cases.

2. The brief facts of the prosecution case:

The petitioner in CrI.M.P(MD)No.845 of 2025 in CrI.R.C(MD) No.992 of 2024 is Accused No.2 in S.C.No.243 of 2011 on the file of the learned Assistant Sessions Judge, Valliyoor. The petitioners in CrI.M.P(MD)No.846 of 2025 are Accused Nos.1 and 3 in that case. The petitioners were found guilty of charges U/s.452 and 307 of



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IPC and they were convicted and sentenced to undergo Rigorous Imprisonment for a period of 5 years each and to pay a fine of Rs.5,000/- each in default, to undergo Rigorous Imprisonment for a period of two years each U/s.452 of IPC; they were convicted and sentenced to undergo Rigorous Imprisonment for a period of 7 years each and to pay a fine of Rs.5,000/- each, in default, to undergo Rigorous Imprisonment for a period of two years each U/s.307 of IPC, directing the sentence of imprisonment to run concurrently as per judgment, dated 15.09.2016 passed by the trial Court.

3. Aggrieved by the conviction judgment, the petitioners have preferred the appeal in CrI.A.No.59 of 2016 before the III Additional District and Sessions Court, Tirunelveli. The said CrI.A.No.59 of 2016 was partly allowed by judgment, dated 28.08.2024, confirming the conviction and fine amount, however modifying the sentence to undergo Rigorous Imprisonment for a period of 4 years each and to pay a fine of Rs.5,000/- each, in default, to undergo simple imprisonment for a period of 1 month each U/s.452 of IPC and to undergo 5 years Rigorous Imprisonment each and to pay a fine of Rs.5,000/- each, in default, to undergo simple imprisonment for a period of 1 month each U/s.307 of IPC.



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4. Challenging the judgment passed in Crl.A.No.59 of 2016, the petitioners have preferred the respective main Criminal Revisions before this Court. Along with the Criminal Revisions, the petitioners have filed these petitions seeking suspension of sentence and for bail till the disposal of the criminal revisions.

5. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.side) appearing for the respondent and perused the records in these Criminal Miscellaneous Petitions.

6. The learned counsels for the petitioners submitted that the Courts below failed to consider the evidence of prosecution witnesses, which are contradictory to each other. The Courts below have considered only the chief examination of witnesses and their cross examinations were not considered. The alleged occurrence took place at 1.30 p.m., but the complaint was recorded at 3.15 p.m., the delay was not explained by the prosecution. Moreover, the writer of F.I.R. was not examined on the prosecution side. Their evidences are uncorroborated. The petitioner in Crl.M.P (MD)No.845 of 2025 in Crl.R.C(MD)No.992 of 2024 is Accused No.2, who is practicing advocate. F.I.R. was registered at 3.30 p.m., whereas P.W.4 deposed as it was registered at 7.30 p.m. The Courts below have not considered all these aspects.



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There are number of arguable points in these revisions. The petitioners have a fair chance of success in these criminal revisions. The learned counsels for the petitioners further submitted that this is the second petition and already the petitioners filed CrI.M.P.(MD)Nos.10936 and 11223 of 2024 and the same were dismissed on 18.12.2024. After dismissal of the petitions, the petitioners surrendered before the trial Court and they are in custody from 20.12.2024. Therefore, the learned counsels prays for suspension of sentence till the disposal of these criminal revisions and the petitioners may be released on bail.

7. The learned Government Advocate (CrI.side) appearing for the respondent submitted that this is the second petition and already the petitioners filed CrI.M.P. (MD)Nos.10936 and 11223 of 2024 and the same were dismissed on 18.12.2024. He would further submit that there are enough materials available on record against the petitioners and prays for dismissal of this petition.

8. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

9. The learned counsel appearing for the petitioners pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material



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particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing in the near future. After dismissal of earlier petitions for suspension of sentence, the petitioners surrendered before the trial Court and they are in custody from 20.12.2024. Considering the above facts and circumstances of the case, this Court is of the considered view that the petitioners herein are entitled to the relief of grant of suspension of sentence.

10. Accordingly, these petitions are allowed and the sentence of the imprisonment alone is suspended pending disposal of the revision on the following conditions:-

(i) The petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, each for a like sum to the satisfaction of the learned Assistant Sessions Judge, Valliyoor, Tirunelveli District;

(ii) 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 to ensure their identity; and



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(iii) The petitioners shall appear before the Assistant Sessions Court, Valliyoor, Tirunelveli District, once in a month i.e., on the first working day of every English Calendar month at 10.30 a.m. until further orders.

sd/-

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31/01/2025

Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSD

TO

- 1 THE III ADDITIONAL DISTRICT
AND SESSIONS JUDGE, TIRUNELVELI.
- 2 THE ASSISTANT SESSIONS JUDGE,
VALLIYOOR
- 3 THE INSPECTOR OF POLICE,
NANGUNERI POLICE STATION,
TIRUNELVELI DISTRICT.
- 4 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI, TIRUNELVELI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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+1 CC to M/s.K.SUYAMBULINGA BHARATHI, Advocate (SR-1201[I] dated 31/01/2025)

ORDER
IN
CRL MP(MD) NOS. 845 and 846 of 2025
in
Crl.R.C(MD)Nos.992 and 1010 of 2024
Date :31/01/2025

SS/SAR- /31/01/2025/ 8P/7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023