



CRL.MP(MD).No.2191 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2025

CORAM:

THE HONOURABLE MR JUSTICE B.PUGALENDHI

CRL.MP(MD).No.2191 of 2025

in

CRL A (MD).No.523 of 2024

Rajesh

.. Petitioner

Vs.

The State of Tamil Nadu
Rep by The Inspector of Police,
Boothapandi Police Station,
Boothapandi,
Kanyakumari District.
(Crime No. 228 of 2016)

.. Respondent

For Petitioner:

Mr.N.Pragalathan

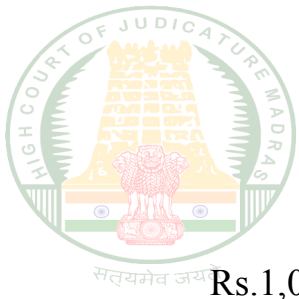
For Respondent:

Mr.P.Kottaichamy,

Government Advocate (Crl Side)

ORDER

The petitioner was found guilty by the Additional District and Sessions Judge, (FTC), Kanyakumari District at Nagercoil in SC.No.74 of 2017 for the offences under Section 304 (ii) IPC and convicted and sentenced to undergo 5 years rigorous imprisonment and to pay a fine of



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Rs.1,000/- with default clause *vide* judgment dated 17.04.2024.

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2. The case of the prosecution is that while travelling in a bus bearing No.TN 74 N0955, there was a quarrel between the petitioner and a co-passenger and in that incident, he is said to have assaulted him with hands and pushed him down and in the said quarrel, the deceased fell down from foot-board of the bus and died. The case was registered for the offences under Sections 294 (b) and 302 IPC. In conclusion of the Trial, this petitioner was found guilty for the offence under Section 304 (ii) IPC and convicted as stated above.

3. As against the conviction, this petitioner has filed an appeal before this Court in Crl.A.No.523/2024 and the same was admitted by this Court. The petitioner has filed an application to suspend the sentence in Crl.MP(MD).No.8724/2024, the same was dismissed *vide* order dated 30.08.2024, considering the date, which was too earlier to enlarge the petitioner on bail. Even after the dismissal of the earlier petition to suspend the sentence, the appeal could not be taken up for final hearing.

4. The learned counsel for the petitioner submits that this petitioner is in jail since 17.04.2024. According to him, this case has been foisted



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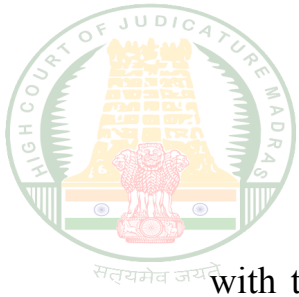
against the petitioner falsely and the deceased was in a drunken mood, fell on his own out of the bus and sustained injuries.

6.The learned Government Advocate (Crl Side) by referring to the earlier orders of this Court submits that the earlier application to suspend the sentence was dismissed and there is no change in circumstances.

7.This Court considered the rival submissions made and perused the material placed on record.

8.Though the earlier application filed by the petitioner to suspend the sentence was dismissed by this court, the petitioner has made out a case that the main criminal appeal could not be taken up for final disposal. Considering the fact that the petitioner is in jail for nearly one (1) year and the petitioner is having some arguable points in the main appeal and it could not be taken up for final disposal immediately, this Court is inclined to suspend the sentence pending the criminal appeal.

9. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees Twenty Five Thousand only)



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with two sureties each for a like sum to the satisfaction of the learned Additional District and Sessions Judge, Kanyakumari District at Nagercoil and on further condition that the petitioner shall appear before the said Court on the first working day of every English Calendar Month at 10.30am.

21.02.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes

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To

1. The Additional District and Sessions Judge,
Kanyakumari District,
at Nagercoil.
2. The Inspector of Police,
Boothapandi Police Station,
Boothapandi,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court.
Madurai.



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B.PUGALENDHI, J.

nst

CRL.MP(MD).No.2191 of 2025
in
CRL A (MD).No.523 of 2024

Dated: 21.02.2025