



CRL RC(MD) No.408 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.04.2025

Pronounced on : 30.04.2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) Nos.4149, 4150 and 4153 of 2025

in

CRL RC(MD) No.408 of 2025

1.M.Selvam
2.M.Deivam @ Deivendran
3.Pechi @ Pechiammal
4.P.Vivekanandan

Petitioners in
all the petitions

Vs

The State of Tamil Nadu, rep. by
The Inspector of Police,
Cumbum North Police Station,
Cumbum, Theni District.
(Crime No.533 of 2010)

Respondent in
all the petitions

(in all the petitions)
For Petitioners : Mr.K.Prabakaran, Advocate

For Respondent : Mrs.M.Aasha,
Government Advocate (Criminal Side)



CRL RC(MD) No.408 of 2025

Prayer in Crl.M.P.(MD)No.4149 of 2025

WEB COPY This Criminal Miscellaneous Petition filed under Section 438(1) B.N.S.S. praying to suspend the sentence as imposed on the petitioners by means of the judgment dated 28.02.2025 made in Crl.A.No.2 of 2025 by the Principal Sessions Judge, Theni confirming the order of sentence as made in S.C.No.22 of 2011 dated 13.12.2024 on the file of the Assistant Sessions Judge, Uthamapalayam, Theni District, pending disposal of the above criminal revision petition.

Prayer in Crl.M.P.(MD)No.4150 of 2025

This Criminal Miscellaneous Petition filed under Section 438(1) B.N.S.S. praying to suspend the sentence as imposed on the petitioners by means of the judgment dated 28.02.2025 made in Crl.A.No.2 of 2025 by the Principal Sessions Judge, Theni confirming the order of sentence as made in S.C.No.22 of 2011 dated 13.12.2024 on the file of the Assistant Sessions Judge, Uthamapalayam, Theni District, pending disposal of the above criminal revision petition.

Prayer in Crl.M.P.(MD)No.4153 of 2025

This Criminal Miscellaneous Petition filed under Section 528 B.N.S.S. praying to exempt the petitioner from surrendering before the Assistant Sessions Judge, Uthamapalayam, Theni District in connection with the case in S.C.No.22 of 2011 dated 13.12.2024 as per the judgment passed by the Principal Sessions Judge, Theni in Crl.A.No.2 of 2025 dated 28.02.2025, pending disposal of the above criminal revision petition.

COMMON ORDER

These Criminal Miscellaneous Petitions have been filed to suspend the sentence of imprisonment imposed on the petitioners/accused 1, 2, 4 & 5 by the learned Assistant Sessions Judge, Uthamapalayam, in S.C.No.22 of 2011, dated 13.12.2024, which was modified by the learned Principal Sessions Judge, Theni, in Crl.A.No.2 of 2025, vide judgment dated 28.02.2025 and to exempt the petitioners from surrendering before the trial Court.

2. The case of the prosecution is that due to land dispute, on 21.06.2010 at



CRL RC(MD) No.408 of 2025

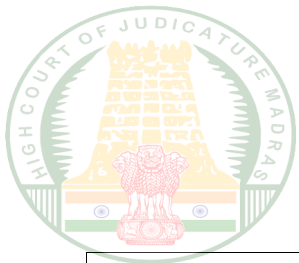
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about 12.30 p.m., the petitioners along with other accused had attacked the defacto complainant and three others by using aruval and knife and caused grievous injuries and also damaged a honda motor cycle and on the basis of the complaint given by the defacto complainant, FIR came to be registered in Crime No.533 of 2010 for the offences under Sections 147, 148, 324, 307 and 427 IPC.

3. The respondent police, after completing the investigation, has filed the final report against six persons including the petitioners for the offences under Sections 147, 148, 324, 326, 427 and 307 r/w 149 IPC and the case was taken on file in P.R.C.No.46 of 2010 and after committal, the case was made over to the Assistant Sessions Court, Uthamapalayam and the same was taken on file in S.C.No.22 of 2011.

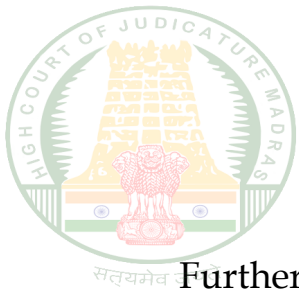
4. During trial, the prosecution has examined 18 witnesses as P.W.1 to P.W.18, exhibited 21 documents as Ex.P.1 to Ex.P.21 and marked 7 material objects as P.M.O.1 to P.M.O.7. The accused have adduced neither oral nor documentary evidence.

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed a judgment dated 13.12.2024 convicting the petitioners and sentenced them as follows:-



CRL RC(MD) No.408 of 2025

Accused	Section	Sentence
Petitioners/ accused 1, 2, 4 & 5	under Section 148 r/w 149 IPC	to undergo 2 years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 3 months Simple Imprisonment
	under Section 307 r/w 149 IPC	with regard to A1, A2 & R5 to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 6 months Simple Imprisonment
		with regard to A4 to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 3 months Simple Imprisonment
	under Section 324 (4 counts) r/w 149 IPC	to undergo 1 years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 3 months Simple Imprisonment
	under Section 427 r/w 149 IPC	to undergo 6 months Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 3 months Simple Imprisonment
	under Section 326 r/w 149 IPC	to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo 6 months Simple Imprisonment

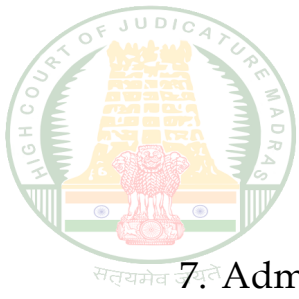


CRL RC(MD) No.408 of 2025

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Further ordered that above the sentences of imprisonment to run concurrently. Challenging the said judgment of conviction and sentence, the petitioners/accused 1, 2, 4 and 5 have preferred an appeal in CrI.A.No.2 of 2025 on the file of the Principal Sessions Court, Theni. The learned Sessions Judge, while partly allowing the appeal, has confirmed the conviction and sentence for the offences under Sections 148, 324 (2 counts), 427 and 149 IPC and set aside the conviction under Section 326 r/w 149 IPC as against the petitioners 1, 2 and 3 and also reduced the sentence imposed on the petitioners 1, 2 and 4 for the offence under Section 307 r/w 149 IPC from 5 years to 3 years. The fine imposed by the trial Court and default sentences imposed are confirmed. Being dissatisfied with the dismissal of the appeal, the petitioners have preferred the present Criminal Revision Case along with the above miscellaneous petitions.

6. The learned counsel appearing for the petitioners would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioners have already paid the fine amount and that the petitioners 1, 2 and 4 are in jail for 128 days.



CRL RC(MD) No.408 of 2025

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7. Admittedly, pending revision, the third petitioner voluntarily surrendered before the trial Court on 03.04.2025 and is in custody till now.

8. The learned counsel appearing for the petitioners would submit that the third petitioner is aged 70 years old and she has been suffering from old age ailments and is taking treatment therefor.

9. The learned Government Advocate (Criminal Side) appearing for the respondent has filed a counter affidavit raising objections to suspend the sentence and would submit that there are totally 6 accused in the charge sheet including the petitioners, that since the third accused died, he was abated from the charged offences and that the trial Court acquitted the sixth accused from all the offences. He would further submit that the first petitioner is having 8 subsequent cases and that there are enough materials available on record against the petitioners and hence, she strongly opposed to grant suspension of sentence.

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



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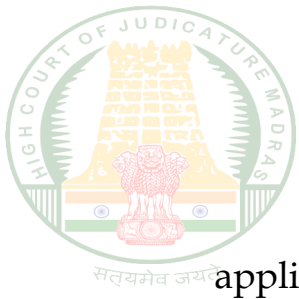
11. The learned counsel appearing for the petitioners pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioners herein are entitled to the relief of grant of suspension of sentence.

12. In the result, the Criminal Miscellaneous Petition in Crl.M.P.(MD)No.4149 of 2025 is ordered. Accordingly, the relief of suspension of sentence and bail is granted to the petitioners 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 Judicial Magistrate, Uthamapalayam, Theni District;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Judicial Magistrate, Uthamapalayam, Theni District, may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioners shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an



CRL RC(MD) No.408 of 2025

WEB COPY

application under Section 355 B.N.S.S. 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.

13. With regard to the Criminal Miscellaneous Petitions in Crl.M.P.(MD) Nos.4150 and 4153 of 2025, the learned counsel appearing for the petitioners seeks permission of this Court to withdraw those petitions and he has also made an endorsement to that effect. In view of the endorsement made by the learned counsel appearing for the petitioners, the Criminal Miscellaneous Petitions in Crl.M.P.(MD) Nos.4150 and 4153 of 2025 are dismissed as withdrawn.

sd/-
30/04/2025

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/04/2025
Sub-Assistant Registrar (CS-I/II/III/IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM



CRL RC(MD) No.408 of 2025

TO
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- 1.THE PRINCIPAL SESSIONS JUDGE,
THENI.
- 2.THE ASSISTANT SESSIONS JUDGE,
UTHAMAPALAYAM, THENI DISTRICT.
- 3.THE JUDICIAL MAGISTRATE,
UTHAMAPALAYAM.
- 4.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
- 5.THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 6.THE SUPERINTENDENT,
WOMEN PRISON, MADURAI.
- 7.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER IN
CRL MP(MD) No.4149,4150 AND 4153 of 2025
Date :30/04/2025

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