



CrI.M.P.(MD) No.8362 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01-07-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

AND

THE HONOURABLE MS.JUSTICE R. POORNIMA

CrI.M.P.(MD) No.8362 of 2024

in

CrI.A.(MD) No.677 of 2024

Ramesh

S/o.Kadarkaraiyandi No.569 Vathiyarvilai Krishnankoil.

Petitioner(s)

Vs

The Inspector of Police

Vadasery Police Station Kanyakumari District. Crime

No.271/2016.

Respondent(s)

For Petitioner(s):

Mr.K. Althaf Sheriff

for M/s. Ajmal Associates

For Respondent(s):

Mr.S.Ravi

Additional Public Prosecutor

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

Seeking to suspend the sentence imposed on the petitioner by the learned

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Principal Sessions Judge, Kanyakumari, vide Judgment dated 26.06.2024 in
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S.C.No.121 of 2017, he has filed this criminal miscellaneous petition.

2. The petitioner stands convicted and sentenced as under:

Section of Law	Sentence of imprisonment	Fine amount
302 I.P.C.	To undergo life imprisonment	Rs.5,000/- i/d to under go three months simple imprisonment

3. The case of the prosecution is that the deceased Sreekrishna Perumal was an office bearer of the Narayanasamy Temple in Vathiyarvilai about five years prior to the incident, the first accused Ramesh assaulted Sreekrishna Perumal during the temple festival leading to registration of the case in Cr.No.1305/2010 of Vadasery Police Station, due to which, A1 Ramesh and his relatives including the second accused Jeyachandran had enmity with Sreekrishna Perumal. On 15.05.2016 at 07.00 P.M., the said Ramesh and Jeyachandran were standing in front of the house of the first accused Ramesh and were conspiring to commit the murder of Sreekrishna Perumal which was witnessed by Bhagavathy Selvan (P.W.4) and Sridhar (P.W.3). In the course of the same transaction and pursuant to the said criminal conspiracy, on 16.05.2016 at 08.00 p.m., when the deceased Sreekrishna



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Perumal along with his wife Seethalakshmi (P.W.2) and son Ashok Kumar (P.W.1) were standing in front of Sreekrishna Perumal's shop under a sodium vapour lamp, the first accused Ramesh brought an iron rod from the house of the second accused Jeyachandran and came towards them and abused Sreekrishna Perumal with obscene language and assaulted him with the iron rod on his head, right forearm and scapular region leading to bleeding injuries and fell down and suffered injuries and was admitted in Muthu Neuro Centre, Chungankadai, where he succumbed to the injuries on 17.05.2016. Hence the case.

4. The Learned counsel appearing for the petitioner would submit that the trial Court erred in believing the evidence of P.W.1 and P.W.2. Their presence at the scene of occurrence is highly doubtful. Though P.W.1 is said to have taken his father to the hospital immediately after the assault with bleeding injuries and that his clothes were said to be stained with blood, the respondent police has not recovered the blood stained clothes. Admittedly, as per the evidence of P.W.11-Doctor and Ex.P13 Accident Register, P.W.3 is the person, who is said to have admitted the deceased in the hospital. Further, P.W.3 in his chief examination has not spoken about the presence of P.W.1 and P.W.2 at the scene of occurrence. Further, as per the FIR, the petitioner is said to have inflicted two injuries with iron rod on the right forearm and scapular region of the deceased, whereas the medical evidence



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contradicts the same. The trial Court, has also failed to take into consideration the exaggerated version of P.W.1 before the Court. The trial Court having disbelieved the evidence of P.Ws.3 & 4 with regard to conspiracy and having acquitted the accused No.2 ought to have acquitted the petitioner disbelieving the evidence of P.W.1 and P.W.2 whose presence at the scene of occurrence is highly doubtful. Apart from that, there are several arguable points and the appeal is of year 2024 and the petitioner is the custody from the date of judgment and the likelihood of the appeal being taken up for final hearing in the near future is also not possible and therefore, he prayed for suspension of sentence.

5. The respondent has filed a detailed counter affidavit. The learned Additional Public Prosecutor appearing for the respondent - Police, would vehemently oppose the application for suspension of sentence contending that the non-recovery of the clothes of P.W.1 and his mother P.W.2 is a minor flaw and it will not affect the case of the prosecution. P.W.1's evidence before the Court is clear and he has deposed about the manner in which the offence has been committed by the petitioner. Admittedly, there had been a previous enmity between the petitioner and the deceased on account of the deceased preventing entry of the petitioner into the temple since he was under the influence of alcohol and due to the enmity, the



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offence has been committed.

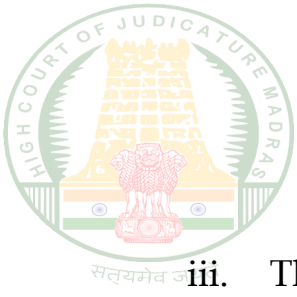
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6. Heard the learned counsel on either side and perused the materials available on record.

7. It is an application of suspension of sentence. We would not propose to delve deep into the evidence at this stage. Having gone through the records, we are of the opinion that it is a fit case for grant of suspension of sentence to the petitioner.

8. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment alone imposed on the petitioner herein is suspended, subject to the following conditions:

- i. The petitioner is directed to be enlarged on bail on executing a bond for Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Nagercoil.
- 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 passbook to ensure their identity.



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- iii. The petitioner shall stay at Chennai and report before the Inspector of Police, Flower Bazaar Police Station, Near Broadway Bus Stop, Chennai daily at 10.30 a.m., until further orders.
- iv. It is made clear that the petitioner shall not enter into the jurisdictional limits of the respondent Police Station until further orders.

sd/-
01/07/2025

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02/07/2025

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

am
To

1. The Principal Sessions Judge,
Kanyakumari.
2. The Judicial Magistrate No. II,
Nagercoil.
3. Do Through The Chief Judicial Magistrate,
Kanyakumari District @ Nagercoil.
4. The Superintendent,
Central Prison, Palayamkottai.
5. The Inspector of Police,
Vadasery Police Station,
Kanyakumari District.

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6. The Inspector of Police,
Flower Bazaar Police Station,
Near Broadway Bus Stop, Chennai.

7. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M/S.AJMAL ASSOCIATES, Advocate (SR-7006[I] dated
02/07/2025)

ORDER
IN
CRL MP(MD) No.8362 of 2024
IN
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Date :01/07/2025

HPS/02.07.2025 /7P/9C

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