



Crl.M.P.(MD)No.11643 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2025

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.11643 of 2023

in

Crl.A.(MD)No.878 of 2022

Mohan Bovas,
S/o.Yavan,
Melathathaiyarkulam
Kothai Village, Olukanacherri,
Nagercoil,
Kanyakumari District.

Petitioner(s)

versus

State rep. by
The Inspector of Police,
Kottar Police Station,
Kanyakumari District.

Respondent(s)

For Petitioner(s): Mr.R.Mariappan, Advocate
For Respondent(s): Mr.P.Kottaichamy, Government Advocate (Crl. Side)

ORDER

The petitioner is the sole accused in S.C.No.170 of 2015 on the file of the learned Additional District Judge (FTC), Nagercoil. The petitioner was tried for the offence under Section 302 IPC. After the trial, the petitioner was found guilty for the offence under Section 304(ii) IPC and convicted and sentenced to undergo 8 years rigorous imprisonment and to pay a fine of Rs.2,000/- in default to undergo six months simple imprisonment, by Judgment dated 05.07.2022. Challenging the Judgment of conviction and sentence, the petitioner has preferred an appeal in Crl.A.(MD)No.878



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of 2022 along with a petition to suspend the sentence in Crl.M.P.(MD)No.16205 of 2022. This Court, by order dated 14.02.2023, dismissed the earlier petition in Crl.M.P.(MD)No.16205 of 2022 that it is too early from the date of conviction. Thereafter, the present petition has been filed to suspend the sentence imposed on the petitioner.

2. The case of the prosecution is that the petitioner is the brother-in-law of the deceased and both were working together as Painters. On 21.01.2015 at about 10.15 p.m., the deceased along with his brother/defacto complainant went to the house of the accused for taking some tools. At that time, the petitioner picked up quarrel with his mother and when the petitioner tried to assault his mother, the deceased attempted to intervene and prevent him from assaulting his mother and angered over the same, the petitioner took up a knife and caused stab injuries on his left rib region and right stomach region and on account of that, the deceased died. Therefore, the petitioner was prosecuted for the offence under Section 302 IPC. Later, it was found that due to sudden provocation, the petitioner attacked the deceased without any intention. Therefore, the offence was converted to Section 304(ii) IPC and convicted and sentenced him as stated supra.

3. The learned counsel appearing for the petitioner submits that the deceased was residing 15 kms. away from the place of occurrence and there is no reason for him to visit the place of occurrence. According to the prosecution, the deceased has



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attempted to prevent the quarrel between the petitioner and his mother. But, the prosecution has not examined the mother of the accused.

4. The learned counsel for the petitioner further submits that though P.W.1, brother of the deceased, has accompanied the deceased, the deceased was admitted in the Hospital by one Rajan. P.W.1 has not accompanied the deceased, when he was admitted in the hospital. Therefore, the probability of the presence of the defacto complainant in the place of occurrence is doubtful. Therefore, the petitioner is having certain arguable points in this appeal. Since the petitioner is in jail from the date of conviction, he seeks for suspending the sentence.

5. The learned Government Advocate (Crl. Side) submits that the earlier petition filed by the petitioner in Crl.M.P.(MD)No.16205 of 2022 was dismissed by this Court, by order dated 14.02.2023 and therefore, there is no change in circumstances in this case. He further submits that the petitioner has caused two stab injuries on the deceased, which resulted in death of the deceased.

6. This Court considered the rival submissions and perused the materials available on record.

7. The petitioner has raised certain arguable points, which can be considered only during the final hearing of the appeal. However the appeal could not be taken up for final hearing for want of time. Considering the points raised by the petitioner,

his period of incarceration and for the reason that the appeal could not be taken up



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immediately, this Court is inclined to allow this petition.

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8. Accordingly, 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) with two sureties each for a like sum to the satisfaction of the learned Additional District Judge (FTC), Nagercoil and on further conditions that the petitioner shall stay at Madurai and report before the Inspector of Police, Teppakulam Police Station, Madurai, daily at 10.30 a.m. until further orders.

sd/-

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

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TO

1 THE ADDITIONAL DISTRICT JUDGE (FTC), NAGERCOIL.

2 THE INSPECTOR OF POLICE, KOTTAR POLICE STATION,
KANYAKUMARI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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THE INSPECTOR OF POLICE
TEPPAKULAM POLICE STATION, MADURAI.

+1 CC to M/s.S.MUNIYANDI, Advocate (SR-3000[I] dated 18/03/2025)

ORDER
IN
Crl.M.P.(MD)No.11643 of 2023
in
Crl.A.(MD)No.878 of 2022
Date :18/03/2025

RS/GSV/SAR-(28.03.2025) 5P 7C
Madurai Bench of Madras High Court is issuing
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