



Crl.M.P.(MD) No.12968 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

and

THE HONOURABLE MS.JUSTICE R.POORNIMA

Crl.M.P.(MD) No.12968 of 2024

in

Crl.A.(MD) No.1044 of 2024

Parthipan

... Petitioner

Vs.

The State of Tamil Nadu rep. by,
The Inspector of Police,
Athanakottai Police Station,
Pudukkottai District.
(Crime No.70/2018)

... Respondent

PRAYER: Petition filed under Section 389(1) of the Criminal Procedure Code and under Section 430(1) BNSS, to grant an order of suspension of sentence imposed on the petitioner in S.C.No.07 of 2019 dated 17.10.2022 by the learned The Additional District and Sessions Judge/Presiding Officer, Special Court for E.C and NDPS Act Cases, Pudukottai. pending disposal of the main criminal appeal.

For Petitioner : Mr.FR.S.Savarimithu
for M/s.Father Xavier Associates

For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



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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 learned The Additional District and Sessions Judge/Presiding Officer, Special Court for E.C and NDPS Act Cases, Pudukottai vide Judgment dated 17.10.2022 in S.C.No.07 of 2019, he has filed this criminal miscellaneous petition.

2.The petitioner stand convicted and sentenced as under:

Section of Law	Sentence of imprisonment	Fine amount
Section 120(b) r/w 302 of I.P.C.	life imprisonment	Rs.2,000/- i/d to undergo one month simple imprisonment
Section 302 of IPC	Life Imprisonment	Rs.2,000/- i/d to undergo one month simple imprisonment

3. The case of the prosecution is as follows:

(i) Victim Arun was having a Kabadi Team in the name of “Thalapathi Boys”. Parthipan(A1)/petitioner herein and Manimaran (A2), who is the nephew of A1 were also members of the said Kabadi Team. Since the accused were always under intoxication, the victim Arun had kept them as substitute players, thereby both the accused nurtured grudge against the victim for not having them to play as the main



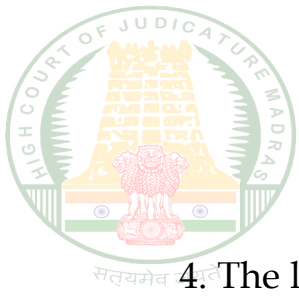
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players in the said Kabadi Team. Prior to fifteen days of the occurrence, the accused had threatened the de facto complainant (P.W.1), father of the victim saying that the victim was not allowing them to play and by keeping them as substitute players, they were degraded and that if they were not allowed to play in the said Kabadi Team, they would kill his son.

(ii) While so, on 17.09.2018, while the victim was Arun was going for a walk near the house of Parthiban (A1), after having dinner, Parthiban (A1) had assaulted the victim with Sickle (M.O.3) resulting him in sustaining injury and falling down and after the victim fallen down, Manimaran (A2) had stamped on the victim's chest. When the de facto complainant (P.W.1) and other witnesses raised alarm, the accused ran towards eucalyptus forest area and escaped from the scene of occurrence.

(iii) Arjun (P.W.4) and Prabakaran (P.W.5), elder brother's son of P.W.1, taken the victim in a two wheeler to the Government Hospital, Pudukottai. While the victim was taking treatment, he died at the hospital on 18.09.2018 at 05.00 a.m. Thereafter, P.W.1 went to the respondent – Police Station at 07.45 hours and gave a complaint (Ex.P1). Pursuant to the said complaint (Ex.P1), a case in Crime No.70 of 2018 (Ex.P8) came to be registered on the next day i.e.18.09.2018 at 07.45 hours.



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4. The learned counsel appearing for the petitioner would submit that the trial Court failed to take into consideration the long delay in registration of FIR and also the unexplained delay in the FIR reaching the jurisdictional Magistrate Court, thereby creating a doubt with regard to possibility of the petitioner (A2) being falsely implicated in this case after deliberation. Admittedly, P.W.1, P.W.4 and P.W.5, who are close relatives, are stated to be eyewitnesses to the occurrence and P.W.4 and P.W.5 are the persons, who have admitted the victim in the hospital on the same day at 23.00 hours. As per the Accident Register (Ex.P7), only one person is said to have inflicted injury on the victim. It is their further evidence that within 10 Minutes of them reaching the hospital along with the victim, intimation was given to the Police Station and a statement was also recorded from P.W.1. However, suppressing such statement, a complaint (Ex.P1) had been given to the Police on the next day morning and the FIR (Ex.P8) came to be registered at 07.45 hours. Strangely, though the distance between the Police Station and the jurisdictional Magistrate Court is only 25 Kms., and it is the admission of P.W.12 that there is a possibility of reaching the Court within 45 Minutes, the FIR (Ex.P8) had been received by the jurisdictional Magistrate Court on 18.09.2018 at 05.55 p.m. The delay in the FIR (Ex.P8) reaching the jurisdictional Magistrate Court has not been duly explained by the prosecution, which creates a doubt in the prosecution case.



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Learned counsel for the petitioner would further submit that the occurrence is said to have taken place in the year 2018 and the accused was on bail during trial and he had not misused the liberty granted to him and there are arguable points in favour of the petitioner and the likelihood of the appeal being taken up for final hearing in the near future is also not possible and therefore, she prayed for suspension of sentence. A2 has been granted suspension of sentence by this Court in Crl.M.P(MD) No.16999/2023 dated 01.04.2014.

5.Learned Additional Public Prosecutor appearing for the respondent Police would submit that the petitioner is A1 in this case. On account of previous enmity, the petitioner (A1) conspired with A2 in order to do away the victim and that on 17.09.2018, when the victim had gone for a walk near his house around 11.00 p.m., the accused have waylaid him and A1 had inflicted injuries with Sickle (M.O.5) and after the victim had fallen down, the A2 had stamped on his chest and caused injuries. The victim was taken to the hospital, where he succumbed to the injuries on the next day. The delay in the FIR (Ex.P8) reaching the jurisdictional Magistrate Court had been explained and the Trial Court had rightly found the accused guilty for the offences. There are eyewitnesses to the occurrence, who have also spoken about the incident and the overt act of the petitioner and hence, he would vehemently oppose for grant of bail to the petitioner.



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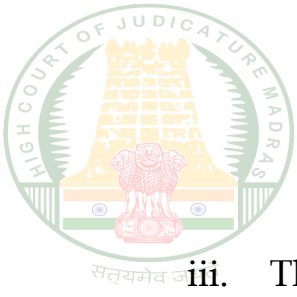
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on record.

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

7. Having gone through the records and taking into consideration the facts and circumstances of the case, we find that the delay in the FIR (Ex.P8) reaching the jurisdictional Magistrate Court has not been properly explained by the prosecution and it creates doubt in the prosecution case. Hence, 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 Additional District and Sessions Judge/Presiding Officer, Special Court for E.C and NDPS Act Cases, Pudukottai.
- 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 Flower Bazaar Police Station at 10.30 a.m., every day, 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/-
19/08/2025

/ TRUE COPY /

22/08/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

pjl
TO

1.The Additional District and Sessions Judge/presiding Officer,
Special Court For E.C and Ndps Act Cases,
Pudukottai.

2.The Superintendent,
Central Prison, Trichy.

3.The Inspector of Police,
Athanakottai Police Station,
Pudukkottai District.

4.The Inspector of Police,
Flower Bazaar Police Station, Chennai.



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

+1 CC to M/s.FATHER XAVIER ASSOCIATES, Advocate (SR-8950[I] dated
19/08/2025)

ORDER
IN
CRL MP(MD) No.12968 of 2024
Date :19/08/2025

SBN/22.08.2025 8P/7C

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