



CRL MP(MD) NO. 45 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05-02-2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

CRL MP(MD) NO. 45 of 2025

IN

CRL A(MD) NO. 3 OF 2025

1. Darwin

S/o.Edward @ Babu,
Amcikaluzhi, Thaiyalumoodu,
Kanyakumari District.

2. Delvin @ Delbin

S/o.Edward @ Babu,
Amcikaluzhi, Thaiyalumoodu,
Kanyakumari District.

3. Christopher Raj

S/o.Ponnumani,
Vandakannavilai, Thaiyalumoodu,
Kanyakumari District.

Petitioner(s)

Vs

The State of Tamil Nadu
Rep by the The Inspector of Police,
Kalikavilai Police station,
Kanyakumari District.
Crime No. 231/2014

Respondent(s)

For Petitioner(s): Mr.T.Lajapathi Roy, Senior Counsel
for Mr.SC.Herold Singh

For Respondent(s): Mr.T.Senthil Kumar, Additional Public Prosecutor

ORDER

This petition has been filed to suspend the sentence imposed on the petitioners,

by the Additional District and Sessions Court, Kuzhithurai, in S.C.No.321 of 2016
<https://www.mhc.tn.gov.in/judis>



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dated 10.12.2024.

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2. The petitioners faced a trial before the Additional District and Sessions Court, Kuzhithurai, for the offences punishable under Sections 295, 435, 506(ii) and 109 r/w. 34 IPC and Section 3(i) of TNPPDL Act. After the trial, the trial Court, though not found the petitioners guilty for the offence under Section 506(ii) IPC, however, found them guilty for the offences under Sections 435, 295 and 109 r/w. 34 IPC and Section 3(i) of TNPPDL Act, convicted and sentenced them as follows:

i) for the offence under Section 435 IPC, sentenced them to undergo five years simple imprisonment;

ii) for the offence under Section 295 IPC, sentenced them to undergo two years simple imprisonment;

iii) for the offence under Section 3(i) TNPPDL Act, sentenced them to undergo five years simple imprisonment and to pay a fine of Rs.1,000/- each, with the default sentence of two months simple imprisonment.

The sentences of imprisonment were ordered to run concurrently.

3. The learned Senior Counsel appearing for the petitioners submits that the first and second petitioner's father one Edward @ Babu, had already raised an issue with regard to the subject property and also filed a writ petition before this Court in W.P.(MD)No.6147 of 2013, wherein, this Court, by order dated 16.04.2013, granted an



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interim order directing the official respondents therein not to permit the defacto complainant to conduct festival in the Temple, where, the alleged occurrence had taken place. However, the learned Additional District and Sessions Judge, Kuzhithurai, without considering the interim order passed by this Court in W.P.(MD) No.6147 of 2013, dated 16.04.2013, came to the conclusion that the petitioners/accused are trespassers and they set fire to the plastic flowers and damaged the plastic flower decorations made for 100 meters and found them guilty and convicted for the above offences. Therefore, the learned Senior Counsel prays for suspension of sentence.

4. The learned Additional Public Prosecutor submits that the 3rd petitioner is having sixteen (16) previous cases and therefore, he objected to grant suspension of sentence to the 3rd petitioner.

5. In view of the objection raised by the learned Additional Public Prosecutor, the learned Senior Counsel submits that he is not pressing this petition for the 3rd petitioner for the present.

6. Accordingly, this petition is dismissed as not pressed, insofar as the 3rd petitioner is concerned.

7. Insofar as the 1st and 2nd petitioners are concerned, this Court, by considering

<https://www.hcjd.org.in> the period of incarceration and the grounds raised by the learned Senior Counsel



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appearing for the petitioners and also considering the fact that the appeal is not likely to be taken up for hearing in the near future, this Court is inclined to suspend the sentence imposed on the petitioners 1 and 2 alone.

8. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioners 1 and 2 are ordered to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) each, with two sureties each for a like sum to the satisfaction of the Additional District and Sessions Court, Kuzhithurai, and on further condition that the petitioners shall appear before the said Court on the first working day of every English Calender month at 10.30 a.m., till the disposal of the appeal.

sd/-
05/02/2025

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05/02/2025

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, KUZHITHURAI.

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

3 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.



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

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-1382[I] dated 05/02/2025)

ORDER

IN

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IN

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Date :05/02/2025

RS/IT/SAR-(05.02.2025) 5P 6C

Madurai Bench of Madras High Court is issuing
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