



WEB COPY

CRL MP No. 6064 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL MP No. 6064 of 2026

AND

CRL A NO. 146 OF 2024

1. Arasu @ Jothi
S/o.Perumal,
Residing at
Emappur Village,
ThirukovilurTaluk,
Villupuram District.
2. Viji @ Vijaya Kumar
S/o.Jayapathi,,
Residing at
Emappur Village,
ThirukovilurTaluk,
Villupuram District.
3. Moorthi @ Vinayagamoorthi
S/o.Ramalingam,
Residing at
Emappur Village,
ThirukovilurTaluk,
Villupuram District.

..Petitioner(s)

Vs

1. State of Tamilnadu

Rep. by The Deputy Superintendent of Police,
Thiruvannainallur Police Station,



Villupuram Division,
Villupuram District.
(Crime No.25 of 2014)

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2. S.Iyappan
S/o.Selvaraj,
Gandhi Nagar,
ThiruvennaiNallur, ThirukkivilurTaluk,
Villupuram District.

..Respondent(s)

Prayer: Criminal Miscellaneous Petition filed under Section 430(1) of the BNSS, 2023 to suspend the sentence imposed on the Petitioners/Appellants by the Learned Special Court for the Exclusive Trial of Cases registered under the SC/ST (Prevention of Atrocities) Act, 1989, Villupuram, in S.C.No.226 of 2015 dated 27.12.2023 and enlarge the petitioner on bail, pending disposal of the Criminal Appeal Crl.A.No.146 of 2024, and consequently enlarge the Petitioners/Appellants on bail, and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner(s): Mr.S.Manuraj

For Respondent(s): Mr.M.M.I.Khaleel, Government Advocate
(Criminal Side) For R1

K.Ethirajalu, Legal Aid Counsel For R2



ORDER

(Order of the Court was made by Dr.AnitaSumanth J.)

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This petition has been filed challenging the suspension of sentence passed on 27.12.2023 in SC No. 236 of 2015. The petitioners are A1 to A3.

2. We have heard Mr.S.Manuraj, learned counsel for petitioners and Mr.M.M.I.Khaleel, learned Government Advocate (Criminal Side) for R1 and Mr.K.Ethirajalu, legal aid counsel for R2.

3. The case of the prosecution is that the deceased along with PW1 was travelling in a motor bike and had stopped near a TASMACH shop, where the petitioners were standing along with 14 other individuals. The persons standing near the TASMACH shop had called out to some others who were seated in a bus parked alongside using derogatory and communally sensitive language. PW1 and the deceased, thinking that the utterances were directed towards them had engaged in a wordy quarrel which quickly escalated to a fight in which both PW1 and the deceased were injured, the deceased succumbing thereafter to the injuries.

4. The date of incident is 16.01.2014 and FIR came to be registered, leading to investigation and ultimately the conviction of the petitioners along with A2 and A3. Though a total of 12 persons were named as accused in the charge-sheet, A4 – A12, ultimately came to be acquitted.



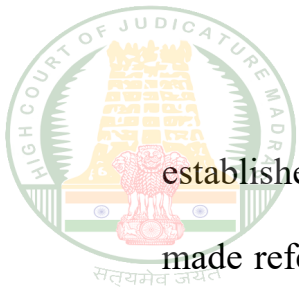
5. The petitioners would argue that they have not been named in the FIR and hence this throws the case of the prosecution into serious doubt. That apart, there are variations in the testimony of the witnesses. The accused have been incarcerated since December 2023 and in view of the prima facie case having been made out, the suspension must be granted as prayed for.

6. Per contra, the prosecution would argue that the case made out as against the accused is water tight, that they have been implicated by name by PW1, who was on the motor bike with the deceased at the scene of crime and whose version was hence credible.

7. Heard both learned counsel and perused the material papers.

8. Post the incident on 16.01.2014, a complaint came to be filed by PW1. In that complaint, the names of A1, A2 and A3 do not figure. It is only in the charge-sheet that we find the names of A1 to A3 among 9 others. This is an improvement which points to the possibility that those not mentioned in the FIR may not have been at the scene of crime at all.

9. That apart, a perusal of the complaint reveals that the complainant / PW1, specifically, and by name has implicated A9, A10, A11 and A12. Importantly, he refers to one of the individuals as being the brother of Arasu, the first petitioner herein. It is thus evident that Arasu was known to PW1 as otherwise he could not have mentioned him by name. This also prima facie



establishes the absence of Arasu at the scene of crime as, if PW1 could have made reference to some other individual as being the brother of Arasu, there is no reason for him not to have mentioned the presence of Arasu himself at the scene of crime.

10. Hence, we find that there is some merit in the argument that Arasu, the first petitioner herein, was not at the scene of crime and the first version of the incident as reported in the complaint of PW1 must carry some weight with us indicating the absence of Arasu, and the other petitioners at the scene of crime.

11. We have been taken through the deposition of PW1 where he, very consciously, makes reference by name, to A1, A2 and A3. There is some degree of artificiality in the fact that PW1 mentions by name, A1, A2 and A3 in his chief examination that was recorded on 30.5.2016 but had not mentioned their presence in the complaint on 16.1.2014, leading to the absence in the FIR as well.

12. It is true that the defence had not cross-examined the witnesses immediately after recording of chief examination. The witnesses had been recalled and examined three years later in 2019. It merits consideration as to why cross-examination was not done promptly by the defence.

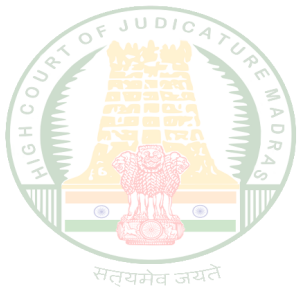


13. Be that as it may, it is a fact that the variations between the names mentioned in the complaint and FIR on the one hand, and the chief examination on the other, leads to the possibility of tutoring of PW1 at the time of chief examination. For the above reasons and since a prima facie case has been made out, we are of the view that this petition is liable to be allowed. This is also for the reason that the appeal is of the year 2024 and would hence take some time to be heard finally and the petitioners have already served sentence since December 2023.

14. For the above reasons, this Criminal Miscellaneous Petition stands allowed and the sentence of imprisonment imposed on petitioners are suspended on the following conditions:

(i) The petitioners shall execute a bond for a sum of Rs.25,000/- with two sureties each, of whom, one should be a blood relative, for a like sum to the satisfaction of the learned Special Court for the Exclusive Trial of cases registered under SC/ST (Prevention of Atrocities) Act, 1989, Villupuram District.

(ii) The petitioners and 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 Pass Book and mobile number to ensure their identity;



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(iii) *The petitioners shall appear before the trial Court on the first working day of every week at 10.30 a.m, until the disposal of the appeal and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an applications under Section 317 Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.*

(A.S.M.,J.) (S.M.,J.)

23-06-2026

Index: Yes/No

Speaking order

Neutral Citation: Yes

ssm

Note to Registry: Issue today.

To

1. The Deputy Superintendent of Police,
Thiruvannainallur Police Station,
Villupuram Division,
Villupuram District.
2. The Public Prosecutor, High Court, Madras.
3. The Special Court for the exclusive trail of Cases
registered under SC/ST (Prevention of Atrocities)
Act, 1989, Villupuram, Villupuram District.
4. The Superintendent, Central Prison, Cuddalore.



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AND
SUNDER MOHAN J.

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