



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Twenty Eighth day of November Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice S.NAGAMUTHU
and

The Hon`ble Mr.Justice M.V.MURALIDARAN

CRL MP(MD) No.11247 of 2016

IN

CRL A(MD) No.433 of 2016

1 SURESH @ SURESH KUMAR

2 SEKAR ALIAS KALIDOSS

... PETITIONERS/APELLANTS

Vs

THE STATE REP BY

THE INSPECTOR OF POLICE,

THANJAVUR TAMIL UNIVERSITY POLICE STATION,

THANJAVUR DISTRICT

(CRIME NO.141 OF 2007)

... RESPONDENT/RESPONDENT

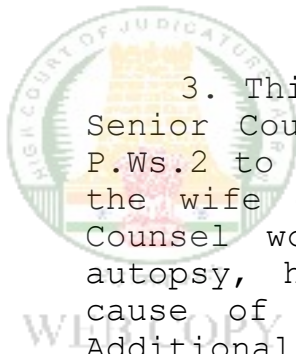
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed by the Judgment dated 18.10.2016 made in SC NO. 245 of 2010 on the file of the 1st Additional District and Sessions Judge, (PCR) Thanjavur and enlarge the petitioners on bail pending disposal of the above Crl.A(MD)No.433 of 2016.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.M.AJMALKHAN, Senior Counsel for M/S.AJMAL ASSOCIATES, Advocate for the petitioner and of M/S.R.RAMACHANDRAN, Additional Public Prosecutor on behalf of the Respondent the Court made the following order:-

[Order of the Court was made by **S.NAGAMUTHU, J.**]

The petitioners are the accused Nos.1 and 2 in S.C.No.245 of 2010 on the file of the learned First Additional District and Sessions Judge (P.C.R.), Thanjavur. There were seven other accused arrayed as Accused Nos.3 to 9. The Trial Court has acquitted the accused Nos.3 to 9, but, convicted these two accused alone, for the offences under Sections 120-B, 201, 364 and 302 of the Indian Penal Code. The maximum punishment imposed upon them is imprisonment for life. Challenging the said conviction and sentence, the petitioners have come up with the present Criminal Appeal. Pending appeal, they seek suspension of sentence.

2. We have heard the learned Senior Counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing on behalf of the State. We have also perused the records carefully.



3. This is a case based on circumstantial evidence. The learned Senior Counsel appearing for the petitioners would point out that P.Ws.2 to 11 have turned hostile. He would further submit that even the wife of the deceased had turned hostile. The learned Senior Counsel would further point out that the Doctor, who conducted autopsy, has stated that due to decomposition of the dead body, cause of death also could not be found out. But the learned Additional Public Prosecutor would submit that the fact that the dead body was buried was disclosed only by these two accused and the place of burial was also identified by these accused only.

4. In our considered view, the evidence of the Investigating Officer and the Tahsildar that the place, where the dead body of the deceased was buried, was identified only by these two accused, is a very strong circumstance against the accused, which itself would be sufficient to hold them guilty by raising a presumption, as provided under Section 114 of the Indian Evidence Act, 1872. It is true that the other witnesses have turned hostile. On that score, we cannot reject the above strong circumstance.

5. In our considered view, *prima facie*, we are satisfied that the Trial Court was right in convicting the accused. It is not a fit case for granting suspension of sentence. The petition is, therefore, dismissed.

sd/-

28/11/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1.THE FIRST ADDITIONAL DISTRICT AND SESSIONS JUDGE (PCR)

THANJAVUR

2.DO THROUGH THE PRINCIPAL SESSIONS JUDGE

THANJAVUR DISTRICT AT KUMBAKONAM

3.THE JUDICIAL MAGISTRATE NO.II, THANJAVUR

4.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE

THANJAVUR DISTRICT AT KUMBAKONAM

5.THE SUPERINTENDENT, CENTRAL PRISON, TRICHY

6.THE INSPECTOR OF POLICE,

THANJAVUR TAMIL UNIVERSITY POLICE STATION,

THANJAVUR DISTRICT

7.THE ADDITIONAL PUBLIC PROSECUTOR

MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1. C.C. to M/S.AJMAL ASSOCIATES Advocate SR.No.73586

SML

RL/9C/2P/CK/SAR3/1.12.2016

ORDER

IN

CRL MP (MD) No.11247 of 2016

IN

CRL A (MD) No.433 of 2016

Date :28/11/2016