



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

Thursday, the Fifteenth day of September Two Thousand Sixteen
PRESENT

The Hon`ble Mr.Justice S.NAGAMUTHU
and

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

CRL MP (MD) No.5131 of 2016
IN
CRL A (MD) No.229 of 2016

1 GOPI @ DEVENDRAN
2 CHINNADURAI

... PETITIONERS/APPELLANTS

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
NACHIYARKOVIL POLICE STATION,
THANJAVUR DISTRICT.
(CRIME NO. 110/2010)

... 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 of imprisonment imposed by the learned I-Additional District and Sessions Judge (PCR) Thanjavur in S.C.No. 268 of 2011 by the Judgment dated 11.01.2016 and enlarge the petitioners/ Appellants on bail pending disposal of the above said Crl.A.

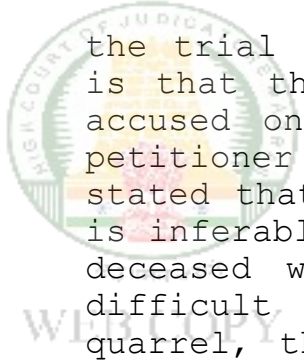
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S M.KARUNANITHI, Advocate for the petitioner and of Mr.T.Mohan, Additional Public Prosecutor for the Respondent, the court made the following order:-

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

The petitioners are the accused Nos.1 and 3 in S.C.No.268 of 2011 on the file of learned I-Additional District and Sessions Judge (PCR), Thanjavur. The first accused has been convicted under Sections 302 and 324 IPC and the third accused has been convicted under Sections 302 r/w 34 IPC and 342 IPC. The maximum punishment imposed on the petitioners is imprisonment for live. 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 counsel for the petitioners and the learned Additional Public Prosecutor appearing on behalf of the State. We have also perused the records carefully.

3. In this case, totally three accused faced the trial. So far as the second accused is concerned, the allegation is that he also attacked the deceased, but the second accused has been acquitted by



the trial Court. The allegation against the petitioners/A1 and A3 is that the third accused caught hold the deceased and the first accused only stabbed the deceased. The learned counsel for the petitioner took us through the evidence of the witnesses, who were stated that the quarrel went for about half an hour. From this, it is inferable that the first accused took out a knife and stabbed the deceased which resulted in the death. Prima facie we find it difficult to believe the story of the prosecution that in the quarrel, the third accused caught hold the deceased and then, the first accused stabbed him. In such view of the matter, we find prima facie case in favour of the third accused alone and therefore, we are inclined to suspend the sentence of the 2nd petitioner/A3 alone.

4. In the result, this petition is allowed in part in the following terms:

(i) In respect of the first petitioner/A1, this petition is dismissed; and

(ii) The sentence of imprisonment imposed on the 2nd petitioner/A3 viz., Chinnadurai alone is suspended pending disposal of the above said CrI.A.(MD)No.229 of 2016 and the 2nd petitioner/A3 is directed to be enlarged on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Kumbakonam, subject to a condition that he shall report before the committal Court, once in a month, i.e., on the first working day of every English Calendar month at 10.30 a.m. until further orders.

sd/-

15/09/2016

/ TRUE COPY /

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

TO

- 1 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE (PCR) THANJAVUR
- 2 THE JUDICIAL MAGISTRATE, KUMBAKONAM
- 3 -do-thro THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM
- 4 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY
- 5 THE INSPECTOR OF POLICE
NACHIYARKOVIL POLICE STATION,
THANJAVUR DISTRICT.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S M.KARUNANITHI Advocate SR.No.52440

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ORDER IN
CRL MP (MD) No.5131 of 2016
IN
CRL A (MD) No.229 of 2016
Date :15/09/2016