



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

Friday, the Seventh day of October Two Thousand Sixteen

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PRESENT

The Hon`ble Mr.Justice S.NAGAMUTHU
and
The Hon`ble Mr.Justice M.V.MURALIDARAN

CRL MP(MD) No.9107 of 2016

IN

CRL A(MD) No.264 of 2016

SIVARANJITH

... PETITIONER/APPELLANT/
ACCUSED NO.1

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
RAJAPALAYAM SOUTH POLICE STATION,
VIRUDHUNAGAR DISTRICT,
CR. NO.306/2013

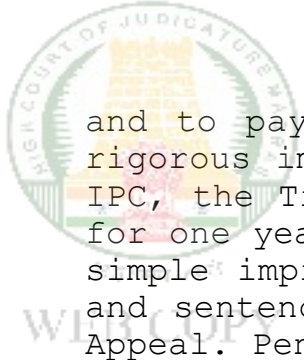
... RESPONDENT/RESPONDENT/
COMPLAINANT.

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 in SC No. 53 of 2015 dated 18.04.2016 passed by the learned Principal Sessions Judge, Virudhunagar at Srivilliputhur and enlarge the petitioner on bail pending disposal of the main Crl. Appeal 264 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.VEERA KATHIRAVAN, Senior Counsel for M/S.M.RAMESH, Advocate for the petitioner and of M/S.C.MAYIL VAHANA RAJENDRAN, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

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

This is a case of abduction for ransom, murder and causing disappearance of the body of the deceased. The petitioner is the first accused in S.C.No.53 of 2015 on the file of the learned Principal Sessions Judge, Virudhunagar District at Srivilliputhur. The Trial Court convicted him for the offences punishable under Sections 364(A), 302 and 201 IPC. For the offence punishable under Section 364(A) IPC, the Trial Court sentenced him to undergo rigorous imprisonment for life and to pay a fine of Rs.3,000/-, in default, to undergo rigorous imprisonment for one year and for the offence punishable under Section 302 IPC, to undergo imprisonment for life



and to pay a fine of Rs.5,000/-, in default, to undergo one year rigorous imprisonment. For the offence punishable under Section 201 IPC, the Trial Court sentenced him to undergo rigorous imprisonment for one year and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month. Challenging the said conviction and sentence, the petitioner has come up with the present Criminal Appeal. Pending appeal, he seeks suspension of sentence.

2. We have heard the learned Senior Counsel appearing for the petitioner 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. P.W.1 has stated that after he came to know that the deceased was found missing, he received a phone call from the cell phone number of the deceased that the deceased had been abducted for ransom. The body was buried using even a cement plaster. The body was recovered from the place identified by the accused. Apart from that, there was extra-judicial confession given by the accused to the Village Administrative Officer confessing to his guilt. Finger print evidence also would prove the guilt of the accused. Apart from that, the call details obtained have also gone in favour of the prosecution. The cell phone with the IMEI number of the deceased was found in the possession of the second accused. Thus, there is overwhelming evidence against the accused.

4. But the learned Senior Counsel for the petitioner would submit that the accused was found in the custody of the police long prior to the alleged date, when he appeared before the Village Administrative Officer. Thus, according to him, the extra-judicial confession cannot be true.

5. Of course, it is true that there is such evidence on record to say that the accused was found in the custody of the police some time before he allegedly appeared before the Village Administrative Officer to make confession. But, ignoring the confession, there are other evidences available on record, which, in our considered view, would be sufficient to sustain the conviction. At any rate, this conclusion of our's is only, prima facie, for the purpose of this petition. In our considered view, it is not a fit case to suspend the sentence. The petition is, therefore, dismissed.

sd/-

07/10/2016

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



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1 THE PRINCIPAL SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE ADDL.PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

4 THE INSPECTOR OF POLICE
RAJAPALAYAM SOUTH POLICE STATION,
VIRUDHUNAGAR DISTRICT.

+1CC to M/S.M.Ramesh, Advocate, SR.No. 60410

ORDER
IN
CRL MP (MD) No.9107 of 2016
IN
CRL A (MD) No.264 of 2016
Date :07/10/2016

AM/SK SKN/SAR-1/02.11.2016/3P/6C