



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

Monday, the Twenty Fourth day of October Two Thousand Sixteen

PRESENT

**The Hon`ble Mr.Justice S.NAGAMUTHU
and**

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

CRL MP (MD) No.9800 of 2016
IN
CRL A (MD) No.SR35346 of 2016

THE STATE REP. BY
THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS,
TUTICORIN SOUTH POLICE STATION,
CRIME NO.01/2012

... PETITIONER/APELLANT/COMPLAINANT

Vs

1 GURUMUTHU
2 ARUMUGAM
3 VETTRIVEL @ SAMUNDI
4 LAKSHMANAN
5 NAGARAJ @ LINGARAJ

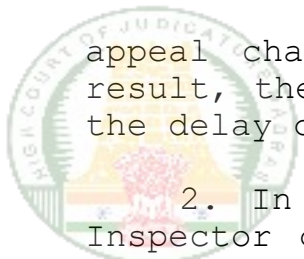
... RESPONDENTS/RESPONDENTS/
ACCUSED A6 TO A10

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to condone the delay of 302 days in preferring the Appeal Against the Acquittal of the respondents / accused A6 to A10 for the offences u/s 302 and 149 IPC passed by the Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court) Tuticorin district in S.C.No.85/2013 dated 04.09.2015 along with the leave petition and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.R.RAMACHANDRAN, Additional Public Prosecutor, Advocate for the petitioner and of Mr.A.THIRUVADI KUMAR, Advocate for R3, the court made the following order:-

(Order of the Court was made by S.NAGAMUTHU, J)

The State has come up with this appeal challenging the acquittal of the accused 6 to 10 in S.C.No.85/2013 on the file of the Sessions Judge, Mahalir Neethimandram (Fast Track Court), Tuticorin. They were all acquitted by judgment dated 04.09.2015. The other accused were convicted by the same judgment. As against the conviction, the convicted accused have filed an appeal, which was listed before this Court for final hearing in the month of September, 2015 and only thereafter, the State has come up with this



appeal challenging the acquittal of the accused 6 to 10. As a result, there has occurred a delay of 302 days. Seeking to condone the delay of 302 days, the State has come up with this petition.

2. In the affidavit filed in support of the petition by the Inspector of Police, he has stated that a copy of the judgment of the trial Court has submitted to the Assistant Public Prosecutor of Sessions Court, Tuticorin, requesting legal opinion on 23.09.2016. Thereafter, along with his opinion, it was submitted to the Public Prosecutor, High Court, Madras, for further opinion. His opinion was obtained on 26.09.2016 and thereafter, this appeal was filed. For the judgment, which was delivered on 04.09.2015, it is not understandable as to why, it has taken more than a year for the State to get opinion from the Public Prosecutor and to file an appeal. In this matter, absolutely, there is no explanation at all for the said delay. However, considering the fact that it is a case of murder and there are also materials against the accused, which requires complete analysis, when we are going to hear the appeal filed by the rest of the accused, we are inclined to condone the delay, even without waiting for the service of notice of all the private respondents, as according to us, the condonation of delay, in the matter, would not cause any prejudice to the accused. However, for the inordinate delay caused by the State in filing this appeal and the State having been so callous in dealing with such serious case of murder, we are inclined to impose cost on the petitioner State.

3. Accordingly, this petition is allowed with a direction to the petitioner to pay cost of Rs.2,000/- (Rupees two thousand only) to be paid to the Hon'ble Chief Justice Relief Fund of this Court within a period of two weeks from today.

sd/-
24/10/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

1. THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM (FAST TRACK MAHILA COURT),
TUTICORIN.
2. THE OFFICER-IN-CHARGE,
HON'BLE CHIEF JUSTICE RELIEF FUND,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL MP(MD) No.9800 of 2016
IN
CRL A(MD) No.SR35346 of 2016
Date :24/10/2016