



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

Tuesday, the Nineteenth day of December Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP(MD) No.11023 of 2017

IN

CRL RC(MD) No.900 of 2017

PRAKASH

... PETITIONER / PETITIONER

Vs

THE SETATE

BY THE INSPECTOR OF POLICE,
SOUTH THAMARAikulam POLICE STATION,
KANYAKUMARI DISTRICT

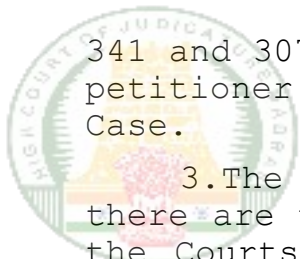
... RESPONDENT / RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to enlarge him on bail by suspending the sentence imposed in C.A.No.105 of 2007 by the Mahil Fast Track Court, Nagercoil dated 28.03.2016 confirming the Judgment made in S.C.No.193 of 2005 before the Assistant Sessions Court cum Chief Judicial Magistrate, Nagercoil dated 14.06.2007 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.M.P.SENTHIL, Advocate for the petitioner and of Mr.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent are present and heard.

2.The petitioner herein is arrayed as A1 in S.C.No.193 of 2005 on the file of the Assistant Sessions cum Chief Judicial Magistrate, Nagercoil and the Trial Court has convicted the petitioner and sentenced to undergo 2 years R.I. and imposed a fine of Rs.5000/- in default to undergo 6 months R.I. for the offence under Section 148 IPC, to pay a fine of Rs.500/- in default to undergo 1 week S.I. for the offence under Section 341 IPC and to undergo 7 years R.I. and to pay a fine of Rs.10,000/- in default to undergo 1 year R.I. under Section 307 IPC. The said sentences are ordered to be run concurrently. Against the judgment of conviction, the petitioner has preferred an appeal in C.A.No.105 of 2007 before the Mahila Fast Track Court, Nagercoil and the same was partly allowed in respect of the other accused, confirming the judgment of the Trial Court as against the petitioner herein for the offence under Sections 148,



341 and 307 IPC. Aggrieved by the judgment of the courts below, the petitioner is before this Court with the present Criminal Revision Case.

3. The learned counsel appearing for the petitioner submits that there are very many legal infirmities in the conviction recorded by the Courts below and they are required to be revised. The learned counsel for the petitioner submitted that totally there are 5 accused in this case and as per the case of the prosecution, at the time of occurrence, A1 has armed with Koki Aruval, A2 has armed with Vettukathi, A3 has armed with iron rod, A4 has armed with stick and A5 has armed with iron rod. A1 attacked on the head of P.W.1 with his weapon, A2 attacked on the left cheek of P.W.1 with Vettukathi, A3 attacked on the left shoulder of P.W.1 with weapon, A4 attacked left side chest of P.W.1 and A5 attacked on the right leg knee of P.W.1 with weapon and thereby all the accused caused injuries. P.Ws.1 to 4, who are eye witnesses to the occurrence, are close relatives. P.W.5, who spoke about the motive, turned hostile during evidence. P.W.7, who is an independent witness, turned hostile. P.Ws.8 and 9, who are magazor witnesses, also turned hostile. P.W.10, who spoke about the confession and recovery of weapon, turned hostile during evidence. He also submitted that the petitioner attacked with kokki aruval is not corroborated during the evidence of P.W.1 and the alleged kokki aruval was also recovered in this case. M.Os.2 and 3 were identified during evidence by the injured persons. P.Ws.1 and 2 deposed that A4 was having stick at the time of occurrence, but P.Ws.3 and 4 have deposed that A4 was having iron rod at the time of occurrence. Hence, there are several contradictions in the evidence of prosecution in respect of weapons used by the accused during the alleged occurrence.

4. The learned Additional Public Prosecutor appearing for the respondent submits that on appreciating the evidence adduced, the Courts below have rightly convicted and appropriately sentenced the petitioner / accused and the petitioner is not having any prima facie case. However, he has no objection in suspending the sentence imposed by the Courts below since the petitioner was on bail during trial.

5. I have anxiously considered the submissions, perused the averments in the bail petition and also impugned Judgment.

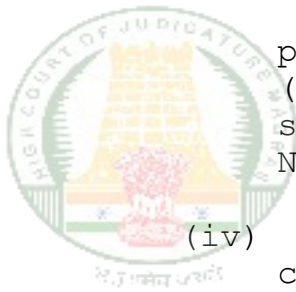
6. Perusing the impugned judgments and the materials on record, I am of the view that certain eminently arguable points are involved in this criminal revision case. They are required to be examined in detail in the main case. It will take some time for the disposal of this criminal revision. I see *prima facie* case. I am inclined to grant revision bail to the petitioner.

7. In view of the foregoing, ordered as under:

(i) Revision bail granted.

(ii) Sentence of imprisonment ordered by the Trial Court as confirmed by the Appellate Court alone is suspended.

(iii) There shall be two sureties, they and the



petitioner shall execute a bond for Rs.10,000/- (Rupees ten thousand only) each to the satisfaction of the learned Judicial Magistrate No.III, Nagercoil.

(iv) The petitioner shall appear before the concerned Court on the first working day of every month at 10.30 a.m., until further orders.

sd/-

19/12/2017

/ TRUE COPY /

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

TO

- 1 THE JUDGE, MAHILA FAST TRACK COURT, NAGERCOIL
- 2 THE ASSISTANT SESSIONS JUDGE
CUM CHIEF JUDICIAL MAGISTRATE, NAGERCOIL
- 3 THE JUDICIAL MAGISTRATE NO.III
NAGERCOIL
- 4 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 5 THE INSPECTOR OF POLICE,
SOUTH THAMARAikulam POLICE STATION,
KANYAKUMARI DISTRICT
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. C.C. to MR.M.P.SENTHIL Advocate SR.No.36522

JAM/26.12.17/PN/ SAR 4 / 3P-8C

ORDER

IN

CRL MP (MD) No.11023 of 2017

IN

CRL RC (MD) No.900 of 2017

Date :19/12/2017