



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

Wednesday, the Twenty Fourth day of May Two Thousand Seventeen

PRESENT

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

and

The Hon`ble Mr.Justice C.V.KARTHIKEYAN

CRL MP (MD) No.4268 of 2017

IN

CRL A(MD) No.210 of 2016

NAGENDRAN

... APPELLANT/ACCUSED NO.2

Vs

STATE THROUGH

THE INSPECTOR OF POLICE
OTHAKADAI POLICE STATION,
MADURAI DISTRICT.
CRIME NO. 514 OF 2011

... RESPONDENT/COMPLAINANT

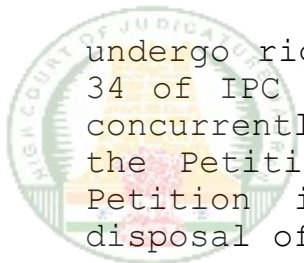
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence awarded to the appellant and release on bail pending disposal of the main Criminal Appeal before this Honourable Court against the Judgment of the Honourable Principal Sessions Judge, Madurai, Madurai District in S.C.No.307 of 2013 dated 25/03/2014.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.R.ALAGUMANI, Advocate for the petitioner and of MR.C.RAMAR, Additional Public Prosecutor, on behalf of the Respondent the court made the following order:-

[Order of the Court was made by M.V.MURALIDARAN, J]

The petitioner filed this Criminal Miscellaneous Petition pleaded to suspend the sentence awarded to the appellant and release on bail pending of the main Criminal Appeal before this Hon'ble Court against the judgment of the Hon'ble Principal Sessions Judge, Madurai, Madurai District in S.C.No.307 of 2013 date 25.03.2014.

2.This Criminal Appeal is filed against the Judgment and order of conviction and sentence passed by the Learned Principal District and Sessions Judge, Madurai in S.C.No.307 of 2013 dated 25.03.2014. The Petitioner has been arrayed as Second Accused. The Petitioner was convicted under section 342 of IPC and was sentenced to undergo rigorous imprisonment for one year and a fine of Rs.500/- in default of payment. The court ordered the petitioner to undergo rigorous imprisonment for three months and sentenced the petitioner to undergo Life Imprisonment for Offence under Section 302 r/w 34 of IPC and to pay a fine of Rs.25,000/- in default to



undergo rigorous imprisonment for six months under section 302 r/w 34 of IPC and directed the appellant to undergo both the sentences concurrently. Aggrieved against the said conviction and sentence, the Petitioner has come forward with this appeal. This Petition is filed seeking for suspension of sentence pending disposal of the appeal.

FACTS OF THE CASE

3. The case of the prosecution is that on 26.10.2011 at 10.15 p.m. the accused along with Karthik a juvenile in conflict with law at the relevant period of time, came to the occurrence place viz Indira Priyadhashini Nagar with the common intention to murder of the deceased Senthilmurugan and from behind the juvenile in conflict with the law namely Karthik took a knife from his shirt and stabbed on the stomach of Senthilmurugan, due to which the deceased died on the way to the hospital and thereby the accused has committed an offence punishable under section 342 and 302 r/w 34 of IPC.

4. On the side of the prosecution there are 14 witnesses examined and 19 Exhibits marked and 8 material objects recovered. The PW1 namely Durairaj is the father of the deceased Senthilmurugan, PW2 namely Chithra is wife and PW3 Kalaivani is the wife of the deceased Senthilmurugan. The PW7 & PW11 namely Pandi and Siva respectively are the friends of the deceased Senthilmurugan. It is the prosecution case that on 26.10.2011 on the eve of deepawali at night 09.00 p.m. vide the complainant, his son, wife and others were sitting and chatting before the complainant's house, the juvenile conflict with law Karthik came in a two wheeler bearing registration No. TN 59 AS 4754 in a drunken mood in a rash and negligent manner driving the motor cycle has fell down before their house. Out of which there arouses scuffle between the complainant's son Senthilmurugan and Karthik and this caused the motive for occurrence of stabbing the deceased Senthilmurugan, resulting in his death.

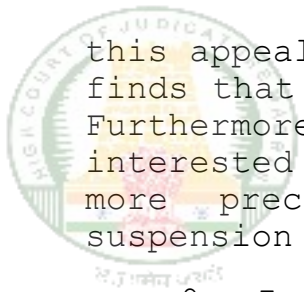
5. The Trial Court framed two charges under section 342 and 302 r/w section 34 of IPC against accused and convicted under sections 342 and 302 r/w 34 of IPC.

6. The learned counsel for the Petitioner would submit that the Trial Court miserably erred in convicting the accused solely based on the deposition of PW1 to PW3 who were interested witnesses, belonging to the same family of the deceased. Further there is an unexplained delay of about 24 hours in lodging the complaint and there is also an unexplained delay in sending the FIR. The evidence of PW1 to PW3 suffers from serious material contradictions from their earlier statements and the evidence deposed in Court.

7. On the other hand the learned Additional Public Prosecutor supported the Judgment of conviction and sentence passed by the court below and contended that the Court below has appreciated the evidence in a proper perspective and opposed the granting of suspension of sentence.

<https://hcservices.ecourts.gov.in/hcservices/>

8. Considering the Submissions made by either side, we are of the considered view that there are arguable points involved in



this appeal and the same cannot be decided at this stage. This court finds that there is a prima facie case in favour of the petitioner. Furthermore this court is of the view that the versions of the interested witnesses are to be approached carefully and relied upon more precautions. Therefore, the petitioner can be granted suspension of sentence pending disposal of the appeal.

9. In the result, the substantive sentence of imprisonment imposed on the petitioner is suspended on executing a bond for a sum of Rs.10,000/- with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Melur. Furthermore the petitioner shall stay away from Madurai and report before the Chief Metropolitan Magistrate, Chennai once in 15 day until further order.

sd/-
24/05/2017

/ TRUE COPY /

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

TO

- 1 THE PRINCIPAL SESSIONS JUDGE, MADURAI.
- 2 THE JUDICIAL MAGISTRATE , MELUR, MADURAI DISTRICT.
- 3 THE CHIEF JUDICIAL MAGISTRTE, MADURAI.
- 4 THE CHEIF METROPOLITAN MAGISTRATE, CHENNAI.
- 5 THE INSPECTOR OF POLICE,
OTHAKADAI POLICE STATION, MADURAI DISTRICT.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 7 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

+1. C.C. to M/S.R.ALAGUMANI Advocate SR.No.22612

SKN
MKV-KK-SAR 1/1.6.2017/3P-9C

ORDER
IN
CRL MP (MD) No.4268 of 2017
IN
CRL A (MD) No.210 of 2016
Date :24/05/2017