



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

Monday, the Twenty Third day of October Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice R.SUBBIAH
and

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL MP(MD) No.5382 of 2017

IN

CRL A(MD) No.198 of 2017

1 BRIGHT
2 PRINCE
3 BASKAR

... PETITIONERS/APELLANTS

Vs

THE STATE OF TAMILNADU,
THE INSPECTOR OF POLICE,
ARALVAIMOZHY POLICE STATION,
KANYAKUMARI DISTRICT
CRIME NO.366/2009

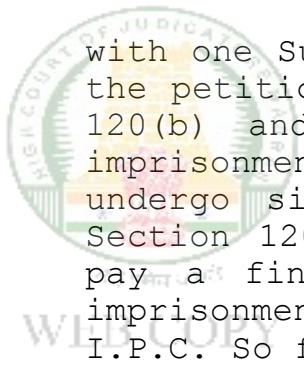
... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioners vide order dated 26/04/2017 made in S.C.No.1/2011 on the file of the Learned Court of Sessions, Kanyakumari District at Nagercoil and release the petitioners on bail pending disposal of the above Cr1.A.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.K.CHELLAPANDIAN, Senior Counsel for M/S. J. ASHOK, Advocate for the petitioner and of MR.A.BALAJI, Advocate for P2 & P3 and MR.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor for R1, the court made the following order:-

(Order of the Court was made by **R.SUBBIAH, J**)

The petitioners/appellants are the accused Nos.1 to 3 in S.C.No.1 of 2011 on the file of the Court of Sessions, Kanyakumari District at Nagercoil. These petitioners were put up for trial along



with one Subi, who have been arrayed as A4. On completion of trial, the petitioners have been convicted for the offences under Sections 120(b) and 302 of I.P.C. and sentencing them to undergo life imprisonment and to pay a fine of Rs.1,000/- each, in default, to undergo simple imprisonment for one year for the offence under Section 120(b) of I.P.C., and to undergo life imprisonment and to pay a fine of Rs.1,000/- each, in default, to undergo simple imprisonment for one year for the offence under Section 302 of I.P.C. So far as the fourth accused is concerned, she was acquitted. Challenging the said conviction and sentence imposed, the petitioners have come up with this appeal. Pending appeal, they seek suspension of the substantive sentence of imprisonment imposed on them.

2. We have heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent and we have also perused the records carefully.

3. The learned counsel for the petitioners seeks permission of this Court to withdraw this petition in respect of the first petitioner/A1. He would further submit that according to the prosecution, the motive for murder is that the deceased was a witness in a previous murder case pending against A1. Since the deceased Raja Jeba Sekar deposed evidence in the previous murder case that A1 to A3 attacked the deceased on the date of occurrence with knife, but P.W.8, who was examined in this case, clearly stated in his evidence that the deceased not a witness at all in the previous murder case pending against A1. Furthermore, P.W.1, who is the brother of the accused, stated in his evidence that he was not in the place of occurrence. It is further stated that the accused are having good case for an acquittal and hence they sought for bail and they are in incarceration for more then six months and hence, prayed for suspension of substantive sentence of imprisonment.

4. The learned Additional Public Prosecutor vehemently oppose this petition for suspending the sentence.

5. Considering the facts and circumstances of the case and also considering the fact that there are arguable points in favour of the petitioners 2 and 3, we are inclined to suspend the sentence of imprisonment alone imposed on the petitioners 2 and 3 pending appeal and this petition is dismissed as withdrawn in respect of the first petitioner/A1.

6. Accordingly, this petition is allowed in respect of the petitioners 2 and 3 and the substantive sentence of imprisonment imposed on the petitioners 2 and 3 alone is suspended and the petitioners 2 and 3 are directed to be enlarged on bail, on the following conditions:

The petitioners 2 and 3 shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Boothapandy, Kanyakumari District and on further



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condition that the petitioners 2 and 3 shall report before the committal Court at 10.30 a.m., on the first working day of every English Calender Month, until further orders.

/ TRUE COPY /

sd/-
23/10/2017

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

TO

- 1 THE JUDICIAL MAGISTRATE,
BOOTHAPANDY, KANYAKUMARI DISTRICT
- 2 THE CHIEF JUDICIAL MAGISTRATE
KANYAKUMARI DISTRICT AT NAGERCOIL
- 3 THE SESSION JUDGE,
KANYAKUMARI DISTRICT AT NAGERCOIL
- 4 THE INSPECTOR OF POLICE,
ARALVAIMOZHY POLICE STATION,
KANYAKUMARI DISTRICT
- 5 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. C.C. to M/S. A.BALAJI, Advocate SR.No.83101

ORDER
IN
CRL MP(MD) No.5382 of 2017
IN
CRL A(MD) No.198 of 2017
Date :23/10/2017

SMA/CM-MSA/SAR-2/26.10.2017:3P/8c